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GENERAL HISTORY

FROM 5000 B.C. TO 1900 A.D.

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GENERAL HISTORY

OF

WESTERN NATIONS

FROM 5000 B.C. TO 1900 A.D.

BY

EMIL REICH

DOCTOR JURIS

AUTHOR OF 'GRAECO-ROMAN INSTITUTIONS'; 'ATLAS ANTIQUUS'; 'ATLAS OF ENGLISH HISTORY'; 'SUCCESS AMONG NATIONS'; 'SELECT DOCUMENTS ILLUSTRATING MEDIAEVAL AND MODERN HISTORY'; 'IMPERIALISM'; ETC.

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BOOK III

ROME

No city of Europe or Asia can compare with Rome in far-reaching influence on the destinies of humanity. Some cities have ruled a great number of nations; others have taught science or art; still others have furnished inexhaustible stores of goods, riches, and amenities. Rome alone has ruled the will, taught the minds, kindled the imaginations, attracted the interests, and led the commerce of untold millions, for over two thousand years. The language of that one city has become the language of several of the most numerous and most important nations of Europe; for it is well known that the French, the Spanish, the Portuguese, the Italians, the Rumanians, and several other minor nations still use idioms essentially identical with the idiom of the ancient Romans. The private law of ancient Rome is still the law of nearly all European nations, except the English, the Hungarians, and the Turks; and in South America as well as in Ceylon the wisdom of the ancient Roman jurists is still revered as the fountain-head and guide of practical law. The policy of government of ancient Rome is still being studied with a zeal that no modern nation would devote to the study of the policy of its own ancestors. And, finally, the creed of Rome, as it developed in the first five centuries of our era, has dominated the

beliefs and religious sentiments of the greater part of Europe for fifteen hundred years; and is still exerting a vast influence on the most intimate sentiments of hundreds of millions of civilised people, both in Europe and America. In the material nature of the globe there is no single structure, solid or liquid, that can claim an influence over the countries of Europe as colossal as has been the influence of Rome on European mankind. Beside that city, all the famous centres of civilisation, such as Babylon, Nineveh, Thebes, Paris, or London, are thrown into shade. In fact, Rome is the eternal city. All our sentiments are bound up with that name: the manliest aspirations, as well as the most rapturous trances of artistic enthusiasm, or the profoundest thrills of religious emotion. Neither the place where our Saviour was born, nor the tombs of our own kings, exert the spell over us that Rome has exercised and for ever will be exercising over the minds of men and women. Whatever bloated modernists may say or write about the immeasurable progress of our time, in our hearts' innermost corner we know that we are poorer specimens of humanity than the Romans of the second Punic war, or even those of the first century of our era. When boys, nothing will thrill all the fibres of our juvenile souls as much as the stories of Mucius Scaevola, Horatius Cocles, or of any other of the great Roman heroes. When of mature age, we eagerly study the "latest" Roman history, or consider a trip to Rome the crowning reward of long years of prosy labour. When of declining years, we generally find the poets and writers of our own nation insipid, laboured, or hysterical; but we still return with

redoubled pleasure to the limpid beauty of the Horatian odes or the sombre charms of Lucretian meditations. Grecian civilisation had one serious fault: it was too artistic. Art is the highest creation of the human mind, and therefore suits very small communities only. The bulk of humanity is unfit for art. To compass the salvation of large communities, powers other than those of art must be brought into operation. Had Greek instead of Latin become the international, legal, and scientific language of mediaeval Europe, the difference between the cultured and the uncultured classes in Europe would have become still more marked in degree and consequently still more disastrous than it is. The Romans alone were able to guide, rule, and content vast masses of men. They alone inspired at once respect and confidence with tribes and peoples of the most divergent nature. In keen contrast to decentralised Greek civilisation, all Roman greatness and force was embodied in and riveted upon one single city: *the* city, *Urbs*. It was Rome at the small beginning of Roman history; and Rome at the end of that glorious expansion of Roman power all over south-western Europe, northern Africa, and western Asia; Rome alone. The axis of universal history turns on Rome ever since the downfall of Greece; Rome is the *locus* demanded by the Greek mathematician as the place whence the world could be moved. To understand Greece is to understand very much. To understand Rome is to understand everything. Roman history is not the history of a nation called the Romans. It is the nations' history; it is typical history; it is, to use a philosophical term, a category of history, not an example. It startles common curiosity as much as

it taunts philosophers. It seems to have a plastic unity, nay, a logical growth, that only wants to be formulated to be at once intelligible. Yet it eludes innumerable efforts at comprehending it. He who has studied it the longest is generally the most modest about his knowledge of it. The labours spent on Roman history cannot be compared, either as to bulk or quality, with the work done in any other department of history. Every line of every possible source of Roman history has been commented upon, dissected, analysed, attacked, doubted, extolled, ridiculed, at a thousand different times, in thousands of volumes, dissertations, pamphlets, or articles. And yet with all that immense literature on the comparatively speaking very few sources of the Roman Republic, we have not advanced our knowledge beyond the first stages. Our successors have not an aftermath before them; even they, for five or six more generations at least, will only prepare the distant day of the golden harvest, when a glimpse into the Olympian council that elevated Rome from a small village to the headship of the world will be allowed us.

Tradition tells us that Rome was founded on the Palatine mount by Romulus and Remus, sons of the god Mars and the virgin Rhea Silvia, descendant of Aeneas's son Ascanius, king of Alba Longa, in 753 B.C.[1] Having killed his brother Remus, who had ridiculed

[1] This, however, is by no means the only tradition; see other traditions in Dionysius Hal. i. 72 *sq.*, or in Plutarch's life of Camillus, ch. 22. As to the date of the foundation, there are also considerable discrepancies. The above date is that adopted, if not proved, by the great Roman antiquarian, Terentius Varro. According to M. Porcius Cato, the date is 752 B.C. (Dionys. i. 74); according to the *commentarii censorii* (Dion. *ib.*), 751; according to Lutatius Catulus, 754 (Solinus, *Polyhist.* i. 27, p. 11 [ed. Momms.]); according to Cincius Alimentus, 729! (Dion. i. 74). Roman chronology is still

the low walls of the young city, Romulus reigned as sole king over the Romans for 37 years, establishing many of the most important political institutions of his people, such as the (patrician) Senate, the division of the patricians into the three tribes of the *Ramnes*, the *Tities*, the *Luceres*; the division of the people into thirty *curiae*, who formed the parliament, called *comitia curiata*; the *clientela*, etc. Being embarrassed for wives for his people, he invited the Sabine maidens to a feast and allowed his people to kidnap them. After successfully warring against neighbouring cities, he "disappeared" into heaven, and was succeeded by Numa Pompilius, a Sabine, who, aided by the counsels of the nymph Egeria, gave the Romans religious institutions, as Romulus had given them political ones. To him was ascribed the establishment of the Vestal Virgins; the building of the temples of Janus and Fides; the introduction of the prophesying augurs, the high priests (*pontifices*), and other priests (*flamines, salii, fetiales*). His mild reign (fully forty-three years) was otherwise uneventful. Under his ferocious successor Tullus Hostilius, who reigned for thirty-two years, a great number of campaigns was undertaken against neighbouring cities, especially against Alba Longa, the mother-city of the Romans, which was destroyed. During the four and twenty years of his successor's (Ancus Marcius) reign a great portion of Latium was con-

very dark. Mommsen's system, published in 1859, and based chiefly on the solar eclipse of June 21, 400 B.C., as a *terminus a quo*, was strenuously combated by Unger (1879), Seeck (1885), Soltau (1889), and defended by Matzat (*Römische Chronologie*, 1884), if on a new basis. For ancient chronology, in general, the work of Ginzel, *Specieller Kanon* (1899), is most instructive. It gives both graphically and historically all the solar and lunar eclipses from 900 B.C. to 600 A.D., showing the areas where they could be observed, especially with regard to Babylon, Memphis, Athens, and Rome.

quered, especially the left shore of the Tiber, at the mouth of which Ostia, 18 miles from Rome, was built. Ancus is credited with having founded the Plebs, or the second great social and political order of Rome. After him came Tarquinius Priscus, an Etruscan, reigning for eight and thirty years. He completed the conquest of Latium, defeated the Etruscans, and erected numerous edifices, and the famous *cloaca* (sewer) of Rome. Servius Tullius, his successor, reigning for forty-four years, is considered to be the founder of the *comitia centuriata*, the Great Assembly of the Roman State. He was succeeded by the last of the seven kings, Tarquinius Superbus, who exasperated the people by his tyranny. His son Sextus, having driven to suicide the victim of his lust, the noble Lucretia, wife to Lucius Tarquinius Collatinus, the Romans, led by Junius Brutus, P. Valerius, and Lucretia's father and husband, started a conspiracy and expelled the king and his family. Brutus and Collatinus became the first consuls of the young Republic. Brutus mercilessly condemned to death and assisted at the execution of his two sons, who were proved to have participated in a conspiracy in favour of the exiled Tarquinians. The date of this foundation of the Roman Republic, according to the tradition, is 510, 509, or 508 B.C.

The above is, in the main, the gist of the tradition as handed down to us by the Roman annalists, the most ancient of whom is Quintus Fabius Pictor, born about 254 B.C., who wrote in Greek, and of whose work we have only twenty-eight fragments, consisting mostly of a few lines each. The narratives contained in them are very meagre indeed. Livy and Dionysius of Halicarnassus are

very full, but inconsistent with one another. Niebuhr, who leans towards Dionysius, reduces the value of Livy's and Cicero's evidence very considerably. Becker, L. Lange, and Madvig, on the other hand, are strongly inclined to array themselves on the side of the Roman historians. Theodor Mommsen, the greatest historian amongst philologists, and the greatest philologist amongst historians, accuses both the Greek and the Roman historians of having used the contaminated sources current in their time, when the first period of Roman history was falsified almost systematically.[1] Such being the state of conflicting

[1] A very complete statement of nearly all the theories and fables regarding the origin of Rome will be found in Nicola Corcia, *Dell' origine di Roma* (Naples, 1879-1881), especially the twelfth chapter. The prehistoric age of Italy has, during the last thirty years, been made the subject of extensive and successful excavations. In the plain of the Po River numerous prehistoric villages, lake-dwellings, have been discovered, on which Helbig (in 1879, and later) published a series of interesting works. Helbig and Nissen are of opinion that the Italic peoples first settled in the plain of Lombardy. On the other hand, the regular orientation of those dwellings according to the bearings of the horizon, together with the fact that the Attic foot was used as the unit, seems to prove that the "*limitatio*" of those villages was of Etruscan origin. In the years 1892-1896 a necropolis, dating from the eighth century B.C., was excavated at Volterra. At Præneste, in 1886, was found a gold *fibula*, with the oldest Latin inscription: *Manios med fhefhaked Numasioi* (= *Manius me fecit Numerio*). Other very archaic finds were made at Conca (1896), Norba (1901), and in the necropoles of Sicily. The very numerous so-called Cyclopean walls in Italy, the archaic origin of some of which has recently been doubted (see especially L. Pigorini, in the *Bullettino di Palctnologia Italiana*, 1902, pp. 134-140, with regard to the Pelasgic walls of Norba; compare also the *Notizie degli scavi*, 1901, pp. 514-559, edited by Savignoni and Mengarelli), have been carefully studied first by Petit-Radel, who has the great merit of having placed the whole subject, previously so very much neglected, on a firm basis (1800-1815), and whose beautiful small-scale imitations of Cyclopean town walls may be studied with advantage in the *Bibliothèque Mazarine*, Paris. He, Mimaut, Edw. Dodwell, Martha, Pinza, R. Fonteanive, etc., have enabled us to see in the Cyclopean architecture, of which Atto Vannucci counted, in 1873, over 400 examples (*Storia dell' Italia Antiqua*, vol. i. p. 84), another proof of the remarkably early civilisation of præ-Roman Italy.

In the beginning of 1899 a black square marble pavement was unearthed on the *Comitium* at Rome, which was at once identified with the *lapis niger* covering, the ancients relate, the tomb of Romulus; and a few months later

opinions, the only trustworthy method of deciding essential points of early Roman history would be the study of the still extant inscriptions on ancient Italic temples, tombs, vases, missiles, coins, and other objects of public or private use. Those inscriptions have been collected with the utmost care;[1] but their interpretation is still very doubtful. Italy at about 1000 B.C. appears to have been inhabited by at least seven, in some points widely different peoples; they are the Latins, the Umbrians, the Oscan Sabellians (*Sabini, Samnites*), the very ancient Ligurians, the Iapygians in the south, the Iberians, and the Etruscans. Of the latter people, who from their odd and mysterious character may fairly be called the Egyptians of Europe, we still possess a vast number of authentic relics, in the shape of temples, tombs, coffins, vases, and inscriptions. Of Etruscan in-

were discovered, beneath that black square pavement, the ruins of what appeared to be a temple, and near it a pyramid with the apex broken off, all the four sides of which were covered with an archaic inscription. The date of this inscription, to judge after its form and character, cannot be much younger than the sixth century B.C. The word *recei* (=*regi*) is clearly legible, and so also the term *kalatorem*. The author of the present work was the first to publish in England a copy of the entire, though much mutilated inscription in *Literature*, the then literary supplement of *The Times*, autumn 1899.

Perhaps even more important was the discovery of a necropolis on the Roman *Forum* (in 1902 and 1903) by Signor Boni, the date of which has been placed as early as the eighth century B.C. The latest work on prae-Roman Italy is by Basile Modestov, in Russian, accessible in the French translation of Michel Delines, *Introduction à l'Histoire Romaine* (Paris, Alcan, 1907, illustr., small 4to, pp. 474, no index).

As in the case of "Higher Criticism" of the Bible, so in the case of the German hyper-criticism of early Roman history, the final blow sweeping away all the flimsy philological cobweb arguments of the Niebuhrian school of historians will be dealt by the spade. It is therefore needless to repeat here the remarks made in the chapters on Hebrew and Greek history regarding the historicity of Moses and Lycurgus respectively.

[1] See Theodor Mommsen, *Die unteritalischen Dialekte* (Leipsic, 1850); S. Th. Aufrecht and A. Kirchhoff, *Die umbrischen Sprachdenkmäler* (two parts in 4to; Berlin, 1849-51); the classical work of Ariodante Fabretti, *Corpus inscriptionum Italicarum antiquioris aevi*, together with the first, second and

scriptions, Deecke, in 1888, counted 6000.[1] Up to the present, however, it has not been settled whether Deecke's (second) opinion, as to the purely Italic character of the Etruscan language, or C. Pauli's view of the non-Italic character of that idiom, is the correct one. This much seems certain, that the Latins were largely influenced by Etruscan civilisation, especially with regard to liturgy, emblems of power, and augury; and that Rome herself seems to have been under Etruscan rule, at least under her three last kings, who appear to have been Etruscans.[2]

Rome, like all the city-states in antiquity originated by a *synoecismus* of various peoples, the Latins proper, the Sabines, and the Etruscans. In this, as in every other case, the so-called racial qualities of the component members were quickly effaced by what is stronger than all "race": the daily working of institutions. And from nearly the outset of the historical period we can clearly trace the peculiar character of the Romans, which individual Romans might intensify, but which is manifest till late in the first century of our era. The Romans were a sturdy

third supplements, a glossary (Turin, 1867-1877; 4to), and G. F. Gamurrini's *Appendice* (Florence, 1880); J. Zvetaieff, *Sylloge inscriptionum oscarum* (St. Petersburg, 1878), and other works in Russian and Latin; C. Pauli, *Die Inschriften der nordetrusk. Alphabete* (Leipsic, 1885). As a handy edition: E. Schneider, *Dialectorum Italicor. aevi vetustioris exempla selecta.* Vol. i.: *Dial. Latinae priscae et Faliscae exempla selecta* (Leipsic, 1886). See especially R. S. Conway, *Italic Dialects* (1897, 2 vols., the first of which contains the Oscan, Umbrian, and the minor dialects; the second comprising the grammar, index, and glossary, pp. 456-686).

[1] W. Deecke, in *Die Italischen Sprachen* in Gustav Groeber's *Grundriss der Romanischen Philologie* (Strassburg, 1888), vol. i. p. 346.

[2] See regarding Etruscan influence on and sway over Rome the remarkable work of G. Cuno, *Die Etrusker, etc.*; Part II. of his *Vorgeschichte Roms* (Graudenz, 1888), which, although somewhat unsatisfactory in its philological parts, is certainly convincing in most of its historical conclusions; and the small but important essay of Prof. V. Gardthausen, *Mastarna oder Servius Tullius* (Leipsic, 1882), where the Etruscan name of Servius T. is proved to have been Mastarna.

people, whose moral capacities were much more strongly developed than their intellectual. The strength and persistency of the will-power was their chief characteristic. Family life was severe and solemn; the father being the absolute ruler of the time, wealth, and life of his children, and even his own wife was, at least in point of law, his daughter. Obedience and strict discharge of duties, together with a most scrupulous use of time and money, were inculcated from childhood onwards. Religiousness and profound respect for the domestic and public ceremonies of religion permeated all his actions and sentiments. By virtue of that pre-eminently ethical view and education of life, daring flights of ideas were essentially repulsive to the Romans;[1] and their sober and logical intellect being subservient to their volitional emotions, they were thoroughly practical, worldly, cool, and temperate. Of such a frame of mind and soul, a dignified and ever-present pride and gravity were the natural consequence; and pride, while it renders us easily accessible to pity, makes us also inclined to scorn and disdain. Satire was accordingly the only original form of literary work invented by the Romans.[2] Their prosy and selfish nature could not have raised them to the level of their greatness, had it not been that, like all city-states, Rome too enlisted all the above forces of mind and character, not in the petty pursuits of commerce, or in wranglings with overweening kings, but in the rearing of an ideal commonwealth. Rome's men were citizens, and citizens only. Like the clergy of the Catholic Church,

[1] Cicero, *in Verrem*, ii. 35 (87); iv. 59 (132); 60 (134).

[2] Quintilian (*Inst.* x. 1, 93): "*satira quidem tota nostra est.*"

their lives commenced, were centred in, and were expended for the good of the State to which they belonged. All great Romans, whether generals, politicians, jurists, writers, or business men, were incumbents of state-offices. Whatever they might do or excel in, they were first of all statesmen, men working for the State, and deriving their commanding position in life from their share in the work of the commonwealth. This is observed particularly in their noble language, a sister—not a daughter—of Greek. Every trait in the physiognomy of Latin bears the effect of the bracing, free air of publicity, buffeted and coloured by the draughts of open discussion, weighted by the solemnity of transactions in the Forum or the Senate, and resounding with the lustrous music of the battle or the triumph. Of parts of speech, the stately substantive is predominant, in contrast to Greek which abounds chiefly in agile verbs. Of vowels, the darker and more solemn ones prevail, and the delicate diphthongs are neglected. Sentences are so linked together as to bring out their mutual subordination—this the chief "virtue" of Roman policy—in the strongest way. Hence the frequent use of relative pronouns as links; Caesar uses them 380 times in his works. And hence also the excessive use of the subjunctive, by which subordination of sentences is clearly marked. Latin, whether that of poets or of prose-writers, is steeped in law terms, in idioms of the Forum and the Senate.[1] For Rome is virility incarnate. Male virtues and male defects created her, elevated her, tainted her. Women, insignificant enough in some

[1] See E. Henriot, *Mœurs juridiques . . . de l'anc. Rome d'après l. poëtes latins* (3 voll. Par. 1865), and the interesting and complete bibliography of this subject in M. Voigt's *Roem. Rechtsgeschichte*, vol. i. (1892) pp. 7-12.

parts of Greece, were a nullity in Rome. In Greece, emancipated women at least had considerable influence; in Republican Rome, none. The excellencies of Roman women were negative and passive. When maidens, they were given no opportunity either to inspire or to curb the passions of young suitors. When married, they either moved in the hallowed circle of the *matrona*, or were official helpmeets of their grave husbands, who abstained both from maltreating and from fondling them. From the standpoint of universal history, the Roman woman's greatest as well as great merit is in having maintained monogamy in Rome. The censor, or the magistrate reprimanding citizens for irregular life, did not do so with women. They were not important enough for it. Nor were women ever given a *tribus*; nor the right of appeal in a criminal case from the decision of the consul against them.

The history of the Roman Republic revolves round two main axes: (*a*) the conquest first of Italy and later of nearly the whole of the then civilised world; (*b*) the elaboration of her constitution by virtue of mostly peaceful struggles and contentions between the two main orders of the commonwealth—to wit, the patricians and the plebeians. With regard to her conquests, the history of the Roman Republic is divided into three periods—namely, (*a*) the period from 510 B.C. to 265 B.C., that is, from the foundation of the Republic to the conquest of all Italy; (*b*) from 265-146 B.C., from the conquest of Italy to the conquest of Carthage and the Greek States; and (*c*) from 146-30 B.C., or to the conquest of the rest of the then civilised world. With regard to her constitution, on the other hand, the history of

the Roman Republic is divided into two periods: (*a*) from 510-300 B.C., or to the *lex Ogulnia*, which, by giving the plebeians access to the dignities of *augures* and *pontifices*, removed the last constitutional barrier between the patricians and plebeians; (*b*) from 300-30 B.C., or to the final fall of republican and the rise of monarchical institutions. However, since the actual equalisation of the two orders did not take place before the middle of the third century B.C. (the *lex Hortensia* of 286 B.C. ultimately confirming the older *lex Publilia* as to the decrees of the plebeian assemblies, or the *plebiscita* having the force of a general law; and the first plebeian *pontifex maximus* being elected as late as 254 B.C.), we may say that the great result of the more than bisecular struggle between the two orders was legally and actually ended by the time the Romans had accomplished the conquest of Italy. And since by the beginning of the third military period the fatal constitutional struggles between the democracy and the oligarchy of Rome had fairly commenced, we may date from 146 B.C. not only the immense expanse of Roman territory, but also the beginning of the final period of Roman constitutional history during the Republic.

At the very outset of the republican period we find Rome at the head of all Latium as far as Tarracina. Many of the cities were her subjects, some her allies. The dethroned Tarquinii were incessantly instigating and imploring cities and kings to help them to their throne. Porsenna, the powerful king of Clusium, whose Etruscan name probably was *Purtsvana* (meaning highest magistrate),[1] appeared

[1] This very plausible conjecture was first put forth in the *Academy*; see the issue of 1880, Dec. 4, p. 411.

before Rome with a large army, 507 B.C., either as the ally or supporter of Tarquinius Superbus. He soon learned to admire, if not to dread, the heroism of the Romans. At a desperate moment, when the bridge leading into Rome was in imminent peril of being taken by the Etruscans, intrepid Horatius Cocles, single-handed, defended the head of the bridge against the enemy, while crying out to his dismayed fellow-soldiers in the thickest of the fight, to cut or burn down the bridge. They rallied and obeyed, and when nothing but the Tiber was behind him, Cocles threw himself into the river and safely reached the opposite shore. One Mucius, subsequently called Scaevola, the left-handed, even penetrated into the king's tent, and striking his dagger into a richly-dressed Etruscan whom he mistook for the king, held his arm calmly over a torch, while telling the amazed king that Romans knew how to suffer as well as how to act.[1] The issue of that war was, it appears, a temporary subjection of Rome to the Etruscans. The young republic must have, however, recovered from that dependence very soon, since we find it engaged in mostly lucky wars against the neighbouring peoples, mainly the Sabini, the Latini, the Volsci, the Aequi, and the Aurunci. Gnaeus Marcius Coriolanus, a haughty patrician, who had been exiled by the recently created plebeian tribunes, 491 B.C., led the Volsci before Rome, and desisted from capturing the city only owing to the tears and prayers of his aged mother. In 486 the Romans admitted the defeated Hernici into the league concluded with the Latini in 493 B.C. One of the

[1] In relating the famous stories of Cocles and Scaevola, we do not intend merely to repeat a beautiful story; we mean to write what, with all deference to Schwegler (*R. G.* ii. pp. 183-188), is a plausible story in its main features.

greatest dangers to Rome was the Etruscan city of Veii, with whom a war of over nine years' duration was carried on, 483-474 B.C., during which the *gens* or clan of the Fabii, 306 men, were all exterminated save one. During the rest of the century the wars with the Aequi, Volsci, the Veiientes, and other neighbouring peoples were continued, the Romans gaining several victories, such as that on the Anio won by the dictator L. Quinctius Cincinnatus, 458 B.C. (?), a man of classical simplicity, who after his victory quietly returned to his plough and rustic poverty, whence the confidence of his compatriots had summoned him to the highest post of the commonwealth a few months previously. Veii was finally taken by the dictator M. Furius Camillus after several years' siege, in 396 B.C., and its territory divided amongst Roman citizens and Latini. Our knowledge of the fourth century B.C. is not very satisfactory either. It is certain that Rome was attacked, taken, and heavily fined, if not completely burnt, by the Gauls, who in their roving campaigns had defeated the Romans near the Allia, probably 390 B.C. The legend tells us, that Camillus, after having secured the permission of the Senate in the besieged Capitol, became dictator and, the Capitol having been saved by the watchfulness of the sacred geese and the alertness of Manlius Capitolinus, Camillus defeated the Gauls. After a second invasion, about the middle of the fourth century, the Gauls made a formal treaty of peace with the Romans, 334 B.C. The Gallic wars do not, however, seem to have impaired the prosperity of Rome. We read of numerous new colonies and new conquests, both in Etruria and in the land of the Volsci; and when in 354 B.C. the Romans concluded an alliance with the

Samnites (or at least with some of the tribes so called), the power of the allies was very considerable. Far from warring with one another (the so-called "first Samnite war"), the two powerful commonwealths appear to have aided one another in the subjugation of the Latini, Volsci, Aurunci, and Sidicini. The Latini were completely subjugated in 338 B.C., and Rome, although granting the Latin cities free commerce (*commercium*) and marriage (*conubium*) with the citizens of Rome, denied them these two comprehensive privileges amongst each other. Tibur and Praeneste alone remained independent allies. Capua made a close alliance with Rome, and thus Campania was to a great extent under Roman influence, 338 B.C. (?). By that time the territory of Rome, enlarged and secured by allied peoples and Roman colonies, had become so considerable, that the still independent clans, cities, and peoples of central Italy, and amongst them chiefly the valiant Samnites, could no longer avoid the conflict for supremacy. So arose the Samnite war, 327-304 B.C., the prize as well as the locality of which was mainly Campania and Apulia, where the Samnites had obtained a strong footing. The wars waged by the Romans up to 327 B.C. had been essentially local wars; the Samnite war was pre-eminently a prelude to the conquest of Italy. And it was during that critical war that the Romans enjoyed the various benefits of their proverbial luck. For, unlike several rapidly rising conquerors, they suffered terrible defeats. We have already learned of the dubious, nay fatal, good luck of the Greeks in their first critical struggle against the Persians. The Romans were spared that Danaid gift of unbroken luck. In 321 B.C. an entire Roman army was taken

captive, and marched under the "yoke" of three lances, by the Samnites in the Caudine Forks; in 315 B.C. the Romans were so completely defeated by the Samnites at Lautulae that Campania seemed utterly lost, while many an allied or subjected city, nay, even faithful Praeneste, abandoned Rome. But the Romans, who had nearly completed their home organisation before they ventured on large wars, turned these and similar misfortunes to the use to which all well-balanced men will turn the blows of fate: they recovered all the more strongly. In 311 B.C. there came, in addition to the war with the Samnites, a war with the Etruscans, who were quickly routed by Quintus Fabius Rullianus at lake Vadimon, 310 B.C., and elsewhere. In 305 B.C. the Romans defeated the Samnites, whose various tribes, in 304 B.C., were forced to beg for peace, and to renew the former alliance. The Aequi were ultimately subjected in the same year. Rome thus became the dominant power in central Italy. The Samnites, now allied with Gauls, Lucanians, and Etruscans, again ventured on a new war with Rome, which lasted from 299 (298?) to 290 B.C. Again the Romans suffered defeat near Camerinum (or Clusium?), 295 B.C., but quickly retrieved their honour in the fearful battle of Sentinum, 295 B.C., where the consul Publius Decius Mus is said to have decided the declining fortune of the Romans by sacrificing himself. The war was ended by the consuls P. Cornelius Rufinus and the heroic M. Curius Dentatus;[1] the latter, moreover, subjected the land of the Sabines and Picenum in the same year, thus extending the Roman sway to the Adriatic. Already

[1] The sarcophagus of one of the consuls of that war, L. Cornelius Scipio Barbatus, and its inscription are still extant (*Corp. Inscr. t. Lat.* i. No. 30).

in 280 B.C. we find the Romans the commanding allies, not to say the lords, of the disunited Etruscans, whom they had saved from the invading Gauls and Boians in the decisive battle at the lake of Vadimon, the date of which is uncertain.[1]

With the exception of the Carthaginians in Africa, there was in the third century B.C. no great and well-organised power in the western half of the Mediterranean other than Rome. It is not too much to say, that if any one city-state in Italy was to become dominant over the others, it must have been a city-state situated somewhere in the centre of Italy. The reason of this assumption is at once geographical, military, and ethnographical. The east, especially the south-east, and the south of Italy were Greek in culture, tendency, and political organisation. Sicily too was Greek, but largely controlled by the Carthaginians. The north of Italy was Etruscan and "barbarous." The only available means, therefore, whereby any Italian city-state could rise over the rest of the cities was by controlling the inevitable conflict between the "foreigners" of the north and the Greeks of the south. That, however, was evidently meant to be achieved by a city-state situated between north and south—that is, in the centre. This the Romans actually did accomplish: they warded off from south Italy the raids of the wild Gauls, Vulsinians, Ligurians, and other "barbarians"; and curbed the unassimilating Etruscans. Having, moreover, been successful against central peoples, nothing now could stand in the way of their advance to Italian hegemony, except the Carthaginians, or some enterprising king in Greece. The Carthaginians, who had renewed the

[1] Polybius, ii. 19 *sq.*

first treaty with the Romans in 348 B.C., continued to keep on good terms with them, and this probably for the very reason which is one of the mainsprings of Rome's subsequent greatness. Rome at the outset of the third century, although powerful, actually, and still more virtually, had no deliberate intention of conquering Italy. The very grandeur of the Romans is rooted in that passive, inexacting attitude to Destiny, which was ingrained in the innermost core of their religious and conservative souls. To strike an active and exacting attitude in the face of Fate; to plan out life and then act unswervingly, obstinately upon that plan, is Promethean and perilous. Men of genius attempt it; and sometimes they succeed; but very frequently they end in disastrous failure. The Romans were not men of genius; they had not planned deliberately the conquest of the world, like Cyrus, Darius, son of Hystaspes, Alexander the Great, the Arabs, the Turks, the Mongolians, Charles V., Napoleon, or others. Their very intellect was far too cold and unimaginative for such a gigantic idea. They did conquer the world nevertheless, because the resultant of the international conflicts between the Mediterranean countries naturally passed through the largest and most central of those countries—that is, through Italy. The State, therefore, that had become dominant in Italy was necessarily destined to become the umpire of international conflicts. Of such conflicts there were, in the fourth century B.C., only two—that between Carthage and the Greeks on the one hand, and between Macedonia and the Greeks on the other; the eastern empires having dropped out of the circle of great powers in Europe.

The shrewd Carthaginians, who were deliberately

extending their transmarine possessions, had no doubt quickly noticed the conservative slowness of the Roman Senate. They therefore continued to be the friends of the Romans. Now the inevitable event occurred: the Greeks of South Italy, unable, like their brethren in Greece proper, to ally themselves into a powerful league, had been constantly in need of extraneous help. Already in 338 B.C. the Tarentines had asked for and obtained the help of Archidamus III. of Sparta. In the first decade of the third century (296 or 295) B.C., Agathocles of Syracuse was assisting Tarentum against the Lucani. These friends proving ineffectual, the people of Thurii, harassed by the Lucani, turned to the Romans, who rid them of their invaders, 282 B.C. At the same time the Tarentines, thinking ten Roman men-of-war had approached Tarentum more closely than the stipulations of a previous treaty would permit, attacked the vessels, snatched Thurii from its Roman garrison, and, moreover, insulted a Roman embassy which demanded explanations. Rome declared war 281 B.C., and the Tarentines, although far from feeble, were at first worsted, and had recourse to the old device of begging help abroad, this time from Pyrrhus, King of Epirus. The "Eagle" of Epirus, who personally resembled Alexander the Great in majesty of face and in ferocious combativeness, trained and steeled in numerous wars in Greece and Asia, eagerly accepted the invitation of the Tarentines. In his ever-seething brain the most gigantic plans were surging. He had nearly succeeded in establishing his rule in Macedonia, and now he thought of becoming for the West of Europe what Alexander the Great had been for the East. Sicily

and the Carthaginian possessions were his aim; of the Romans he had scarcely any other than a contemptible idea. His military genius, ever shining in theoretical works on strategy; his grand fascination over men; his valour and intrepidity; and finally his great practical experience in wars naval and continental, made him a formidable enemy in battle; his nervous restlessness, and the vagueness of his ambition, however, rendered nugatory the fruits of his military exploits. Whether the Romans duly gauged the man, or whether they simply continued to act according to the rules of conduct obtaining in their commonwealth, we know not. Their behaviour, at any rate, was as dignified as it was wise. Pyrrhus defeated the consul P. Valerius Laevinus, in the plain of the Siris, near Heraclea, 280 B.C., mainly by superior strategical knowledge and by his elephants, which the Romans had never before encountered. South Italy was now in his power. He advanced towards Rome, came quite close to it, and had he taken it, Rome's triumphant march might have been delayed for many a generation. However, he retired on hearing that the Romans had made peace with the Etruscans; moreover, he failed in his attempts on Capua and Naples. Pyrrhus sent Cineas to Rome, desiring to conclude an advantageous peace; but the Roman Senate firmly refused to agree to his conditions, and staked their Italian supremacy on the battle of Asculum, 279 B.C., where, on the second day of the battle, the Romans were again defeated.[1] Pyrrhus

[1] About the time of Cineas' embassy to Rome there is, it has been said, much discrepancy between Livy on the one hand, and Justinus (xviii. 2, 6, and Diodorus Siculus (*Reliquiae*, xxii. 6) on the other, the latter two placing it after the battle of Asculum. However, neither Justin nor Diodor expressly or indirectly contradict Livy.

won this victory at enormous loss, and yielding to numerous requests for help from the Sicilians, who were oppressed by the Carthaginians, he rather unwisely left Italy and repaired to Sicily. In Sicily he likewise won battles, but lost the campaign against the Carthaginians, and in the end returned to Italy, 275 B.C., where the Consul M. Curius Dentatus defeated him at Beneventum. This put an end to Pyrrhus' Italian venture, and the Romans now made the south Italian cities either their subjects or their allies, Tarentum falling into their hands in 272 B.C., after the death of Pyrrhus. Severe justice was dealt out to the Romans and Italians who had availed themselves of the troubles of the war: 300 Romans, for instance, who had killed the inhabitants of Rhegium and possessed themselves of the city, being taken to Rome, there to be first whipped and then beheaded, 270 B.C. The Samnites were finally defeated, and were reduced to helpless though self-governing allies; and Italy thus came under Roman rule.

The supremacy of Rome over Italy was, however, essentially different from that of modern States over conquered countries. Some of the city-states were called *Latini*, that is, they had the *jus Latii*, which entitled them to commercial intercourse with Roman citizens and eventually to the right of inheritance. The right of intermarriage with Roman citizens they do not appear to have had. Internally, however, nearly all the allies of Rome were autonomous.

We have so far seen that Rome, from obscure and small beginnings, soared high over all the other commonwealths in Italy, without having had from the outset any ambitious or definite plan of making herself mistress of the dominant peninsula. This result

she achieved mainly owing to the fact that she was situated on one of the great "sheds" of conflicts between antagonistic nations, none of whom succeeded in seizing the reins of Italy with sovereign grip. This singularly fortunate geo-political situation gave rise to that famous Roman Constitution, of which Polybius rightly said, that it was the chief engine of Roman success.[1] The moderns, as a rule, reprimand Plato, Aristotle, and Polybius, if with much kindness, for the idea these ancient sages entertained of the nature of a constitution. It is indeed true that the sentence quoted below from Polybius does not apply to a modern State. It does, for this very reason, fully apply to a classical city-state; as will be seen later on, and as has been shown in the chapter on Lycurgus (see vol. i.). Under these circumstances we may insist on ascribing to that constitution most of the abiding virtues and virile abilities by dint of which the Romans rightly used their good-fortune and wisely utilised their position. We shall therefore now proceed to a survey of the Roman constitution down to the conquest of Italy. This survey will consist (*a*) of a statistical statement of the leading facts of the early Roman constitution; and (*b*) of an elaborate discussion of those facts.

A. Statistical Statement

The constitution of Rome during the regal period was simple. The constituent elements of the State were the patricians and their clients, and the *plebs*.

[1] Polybius expressed himself to that effect; see Preface of the sixth book. Mr. E. S. Shuckburgh renders the passage as follows: ". . . in every practical undertaking by a State we must regard as the most powerful agent for success or failure the form of its constitution. . . ."

The patricians, who recruited themselves either from such as were the legitimate sons of the original Roman patricians, or from such as became Roman patricians by *cooptatio*,[1] were the ruling citizens: in the public Assembly (*Comitia Curiata*) they were so to a very great extent; in the Senate, exclusively. The clients were hereditary liegemen to the patricians, whom they had to accompany and eventually ransom in war, help in money if needed for dowry, fines, etc.; in consideration of which their *patroni* had to protect them in the law-courts and in common life. Their mutual relation was hallowed by religion. The clients were originally subjected tribes or emancipated slaves, at least that is the most probable assumption, broached chiefly by Theodor Mommsen, and advocated by P. Willems, M. Voigt, and others. The *plebs*, or the third element of regal Rome, were citizens, who were subject to the patricians by no personal tie, but whose public rights were considerably more restricted than those of the patricians. They originated in Rome—as they have in all city-states of history—from a variety of processes, and the erudition of historians has vainly tried to simplify these into one distinct method of derivation either from patronless clients or from settled Latini or other tribes.[2] The full constitutional status of

[1] See the list of the foreign *gentes* "co-opted" into the Roman patriciate, together with all the historical evidence bearing on that question, in P. Willems, *Le Sénat de la République Romaine* (Paris, 1885), vol. i. pp. 11 *sq.*

[2] It is needless to show in detail that all philological or archaeological derivations of the *plebs* are essentially futile and superfluous. We might just as well derive the radius from the circumference, or *vice versa*. No city-state can exist without at least two orders of citizens; nor is there an example in history to the contrary. Had Rome had no *plebs* at all, then, and then alone, might we engage in serious investigations about that anomaly. Even G. Oberziner's *Origine della plebe romana* (Leipsic, Brockhaus, 1901) only increases our knowledge of pre-Roman Italy, but not of the origin of the *plebs*.

a Roman citizen consisted mainly of four rights:—1. The *jus suffragii*, or the right of voting in the public assemblies. The Romans, in contrast to modern constitutional monarchies or republics, were, amongst themselves, not over-jealous of the franchise, and from the time of the establishment of a general assembly the citizens, without distinction of wealth or age, had, in theory, the vote on all questions of the State. The object obtained by the modern restrictions of the franchise the Romans secured in a different way (see p. 31). 2. The *jus honorum*, or the right of becoming incumbent of one of the unsalaried, and hence honorary, offices of the State. This right has not been, again in contrast to the Romans, very jealously guarded by the upper classes of modern times; the mediaeval and modern State frequently raising obscure people to high posts, and the Catholic Church elevating persons of the meanest origin to the most influential Church dignities. 3. The *jus sacrorum, auspiciorum, sacerdotiorum*, or the right of performing religious State-acts of augury, priesthood, or sacrifices. In mediaeval and modern times this right was and is reserved for specially ordained persons. 4. The right to claim the possession of parts of the public domain. All these rights (except No. 1) belonged during the regal period to the patricians only; during the first two hundred years after the regal period the plebeians succeeded, step by step, in obtaining the totality of those rights, with the exception of a few religious offices.

The head of regal Rome was the king (*rex*), elected by the Assembly, confirmed by the Senate (*patrum auctoritas*), and by the *inauguratio*, or signs of augury watched by the king-elect and one of the

augurs, and finally by a law (*lex curiata*) passed by the Assembly and investing the king with the chief power in the State.[1] As a sign of his power he was preceded by twelve lictors, carrying the *fasces cum securi*. The insignia of his dignity were the *sella curulis* (ivory chair) and a peculiar *toga*. Considering the vast powers and state-functions of the *paterfamilias* of the *gens*, and other associations of the earliest age, the power of the *rex* was not very great. The number of state-functionaries was small, and the balance of state-power was vested in the *Senate*, consisting of 100 and more Senators, and in the *Comitia Curiata* (Assembly), to which, in King Servius Tullius' time, was added the *Comitia Centuriata*. The Senate confirmed the measures taken by the Assemblies, and was the council of the king. In the older Assembly, the *Comitia Curiata*, on the Forum, in which patricians, clients, and plebeians appear to have had equal votes, the patricians alone directed what Bills were to be proposed; the Senate, in all probability, restricting possible excrescences of the plebeian voters.[2] Voting went per *curia* and per heads; the majority was

[1] In making two acts of the *patrum auctoritas* and the *lex curiata de imperio* we follow the ante-Niebuhrian system, in which the term *patres* is identified with the senators. According to Ph. E. Huschke, Rubino, Broecker, Mommsen, Christensen, Madvig, Soltau, and M. Voigt, *patres* means the patrician senators only. The opinion of the text is also that of P. Willems, *Le droit public romain* (Louvain, 1883), pp. 43, 209-212.

[2] While Mommsen and Soltau have proved the plebeian participation in the *Comitia Curiata* of the Republic (see note 2, p. 35); Niebuhr, Becker, Lange, and others have, in the teeth of the unanimous reports of the ancients (Dionys. ii. 7, 14; iv. 12; vi. 89; Livy i. 8; this passage, "*vocatusque ad concilium multitudine*," is, it must be admitted, somewhat vague; Cicero, *de Republ.* ii. 8, § 14, 12, § 23, etc.), asserted that the plebeians never voted in the *Comitia Curiata*. Mommsen does not admit that plebeians could vote in those *comitia* previous to the Republic; see his *Rom. Staatsrecht*, vol. iii. 1, pp. 92, 93 (1887).

counted by *curiae*, 16 votes being the majority of the (30) *curiae*. After the death of the king, *interreges* were elected, each for five days. The reforms ascribed to King Servius Tullius affected the very essence of regal Rome. He classified the major part of constitutional rights not according to birth, but according to wealth and locality. The territory of Rome he divided into four *tribus*, which by the commencement of the fifth century B.C. had been increased to 21. Rome remained divided into four *tribus urbanae*; the country was divided into 17 *tribus rusticae*, only one of which bore a territorial name, the rest having gentilician names. From 387 B.C. onwards new *tribus rusticae* were created, until in 241 B.C. they reached the final number of 35. The *tribus*, at first chiefly a local division for purposes of levies military or financial, appears to have applied to all the three orders of the ancient State.[1] Appurtenance to a *tribus* was hereditary, and generally unalterable, in spite of change of domicile.

The division of the Roman people into *classes* and *centuriae* of *classes* was a measure both military and political. In the latter respect it was timocratic; for the wealthier citizens had a larger share of command, though a more dangerous front-position in the battle-array. There were 18 *classes* of *equites* or cavalry, six of which were called *per eminentiam*, the *sex suffragia*. It is a moot question whether plebeians could belong to the *sex*. Of infantry there were five *classes*: the first class consisted of 80

[1] Niebuhr excludes the patricians from the *tribus* down to the time of the XII. Tables (450 B.C.); Madvig dissents from this view in his *Die Verfassg. u. Verwaltg. d. roem. Staates* (Leipsic, 1881), vol. i. pp. 102 *sq.*; Mommsen holds that the *tribus* comprised patrician and plebeian real estate owners (*assidui*) only; *Roem. Staatsrecht*, vol. ii. pp. 391 *sq.* (also *Roem. Forschg.* vol. i. pp. 150 *sq.*).

centuriae of citizens (40 for the *juniores* aged 18 to 46, and 40 for the *seniores*), whose *res mancipi* property [1] was worth, according to Livy and in value of his time, 100,000 *asses librales*, or about £2240 absolutely, and considerably more relatively; this was at first also the census of the *equites*, which later on was increased to 400,000 *sesterces*. The second class had 20 *centuriae* (10 for the *juniores*, 10 for the *seniores*); their census being 75,000 *asses librales*. The third class, 20 *centuriae* (likewise 10 *juniores* and 10 *seniores*); their census being 50,000 *asses librales*. The fourth class, 20 *centuriae* (10 *juniores*, 10 *seniores*), possessing 25,000 *asses librales*. The fifth class, 30 *centuriae* (15 *juniores*, 15 *seniores*), possessing 11,000 *asses librales*. Besides these *centuriae*, there were (*a*) two *centuriae fabrum* (artisans), (*b*) two *centuriae cornicinum et tubicinum* (trumpeters). It is not quite certain with which of the five *classes* these four *centuriae* voted; and outside the five *classes* there was one *centuria capite censorum* or the Proletariate.[2] The sum total of all the *centuriae* was therefore 193, and since each *centuria* had one vote only, irrespective of the number of its voters, 97 *centuriae* formed the majority of the Assembly according to *centuriae*, viz. of the *Comitia Centuriata*, which assumed very many of

[1] Roman law divided property into (*a*) *res mancipi*, and (*b*) *res nec mancipi*. The first were real estate in Italy, and their easements; slaves, and domestic cattle; the second were other *res*, such as obligations, bonds, etc.

[2] Livy and Dionysius differ as to the census of the fifth class, and so do Gellius (*Noct. Att.* xvi. 10), Pliny (*Hist. Nat.* xxxiii. 13), and Festus (s.v. *infra classem*). The passage in Cicero, *de Republica*, ii. 22, has given rise to interminable emendations, the most plausible of which is that of Madvig (*V. u. V.* i. 114), who reads: "... quae ad summum usum urbis fabris tignariis est data [LXXX] viii centurias [habeant, quibus ex centum quattuor centuriis]—(tot enim reliquae sunt)—octo solae si accesserunt, ..." etc.

the functions of the older *Comitia Curiata*, although it did not destroy them all. It will be seen that, whenever the 18 *centuriae* of the *equites* were unanimous with the 80 *centuriae* of the first *classis*, the requisite majority for passing a law was obtained. And since the *equites* and the 80 *centuriae* of the first *classis* were admitted first across the narrow *pontes* (bridges) to the *ovile* or *saepta* (polling-place) on the consecrated *campus Martius* (a grassy plain near the Tiber), their agreement made further voting by the other *classes* unnecessary. By this simple device the Romans secured protection from democratic excesses much more effectively than do modern nations by an artificial restriction of the franchise. For, since membership of the first or the second, that is, the governing *classes*, was accessible to any one who had acquired the requisite census; and since many a member of those *classes* must have lost his privilege by financial reverses; the lower strata of Roman society could not feel neglected or humiliated by an institution which rendered the theoretical democracy of Rome practically an oligarchy. In law, Rome had universal suffrage, just as she imposed universal military service, that is, conscription upon all except the *proletarii*; in fact, while universal military service *was* a reality, universal suffrage was not. In (about) 241 B.C., however, the structure of the *Comitia Centuriata* was changed. Of this most incisive reform we possess only two passages in ancient writers, one in Livy (i. 43), the other in Dionysius Halicarnassus (iv. 21). Both passages are unsatisfactory, and so are most of the innumerable hypotheses made in explanation of the meagre accounts of the two historians. One hypothesis alone, although embodied

in no elaborate treatise, and only handed down by tradition, has stood the test of time. It is due to a singularly modest and erudite scholar of Brescia, Ottavio Pantagato (1492-1567), whom his contemporaries considered a "phoenix of knowledge."[1]

According to Pantagato the reform was introduced at the time when the *tribus* were increased to 35, and the *as* was reduced to one-sixth of the original pound. The *tribus* becoming the basis of the number and distribution of the *centuriae*, each of the above five *classes* (the census of which was increased)[2] was accorded two *centuriae* in each *tribus*, and thus 70 *centuriae* in all the 35 *tribus*. Each of the five *classes*, therefore, had now 70 *centuriae*, whereas formerly the first *classis* had 80 *centuriae*, while the second, third, and fourth *classis* had only 20 severally, and the fifth *classis* 30. They were complemented by the 18 *centuriae equitum*, the 4 *centuriae fabrum et tubicinum*, and 1 *centuria* of *capite censorum*. All told, there were then 373 *centuriae* ($5 \times 70 + 18 + 4 + 1$), and hence 187 *centuriae* were needed for a majority, and this again

[1] Pantagato's ingenious view has been handed down to us by Antonius Augustinus, the learned Archbishop of Tarragona (1517-1586), in a letter to Ursinus, which may be found in the Drakenborch edition (1738) of Livy, *ad* I. 43, pp. 179 *sq.* There is an interesting little book, entitled *La Fenice de gl' ingegni de suoi tempi Ottavio Pantagato*, by Leonardo Cozzando (Brescia, 1682), giving a full biography of Pantagato. He left no printed book of his own.

[2] Émile Belot, in two valuable works—(*a*) *Histoire des chevaliers romains* (Paris, 1866, etc., especially vol. i. pp. 272-294, 368-384), and (*b*) *De la révolution économique et monétaire qui eut lieu à Rome au milieu du III^e s.*, etc. (Paris 1885)—has disproved Boeckh's generally accepted assumption that the census was, at the time of the reform, not increased. According to him, the census of the first class, which had been £2240 before 241 B.C., was increased to £3900; and the census of the other classes accordingly. Compare also Karlowa, *Röm. Rechtsgeschichte* (1885), i. 384, etc., who is also in favour of an increased census.

necessitated the polling of the third *classis*, which had in previous centuries frequently been prevented from voting, by the unanimity of the "18" and the first *classis*. This democratic reform was still more developed by depriving the *equites* of their prerogative of voting first; a *centuria* of the first *classis* being chosen for this purpose by lot.[1]

Beside the Assembly called the *Comitia Centuriata*, or the Roman people united according to *centuriae*, there was another assembly, the *Comitia Tributa*, in which at first, when the *plebiscitum Publilium Voleronis* of 471 B.C. was passed, the *plebs*, and the *plebs* alone, were united according to local *tribus*. Very soon, however, the *Comitia Tributa* comprised patricians as well as plebeians. In those *Comitia* voting was subject to no restrictions of wealth, age, or rank, and was simultaneous. It is important to distinguish the *Comitia Tributa* from the strictly plebeian *Concilia Plebis*,[2] to which patricians were not admitted at all, and which likewise lasted to the end of the Republic, exercising a deep influence on politics and on statutory private law.

The *Concilia Plebis* assembled, as a rule, on the *Forum Romanum*. A species of the *Comitia Tributa* were the *Comitia Sacerdotum*, at which 17 *tribus* only

[1] Paul Guiraud has tried to prove (*Revue Historique*, *tome* xvii., *sept.-déc.* 1881, pp. 1-24) that no radical change was made in the essentially aristocratic *comitia centuriata* during the latter half of the third century B.C., and that, accordingly, the theory of Pantagato ought to be rejected. Guiraud's view (itself an elaboration of the older views advanced by Gerlach, Preu, and others) was vigorously combated by G. Bloch (*ib. tome* xxxii., *sept.-déc.* 1886, pp. 1-32, 241-289).

[2] *Concilium Plebis* is an assembly called together by a plebeian magistrate (*tribunus* or *aedilis plebis*); *Comitia Tributa* proper were presided over also by patrician magistrates (consuls, praetors, curule aediles) The former assemblies were politically the more dangerous ones; they were, however, convened *inauspicato*, that is, without the solemn consultation of Jupiter's will.

could vote, for the election of the *Pontifex Maximus*,[1] and other State-priests.

It will be seen that Rome, in marked contrast to modern States, had not one Parliament consisting of two Houses, nor one House or Assembly as had Athens and most of the Greek States; but a series of Assemblies. These Assemblies were:—(1) The *Comitia Calata*; (2) the *Comitia Curiata*; (3) the *Concilia Plebis*; (4) the *Comitia Tributa*; (5) the *Comitia Centuriata*; and minor Assemblies, such as the (6) *Comitia Sacerdotum*; (7) the *Contiones*. For, in Rome, as will be seen in the *Discussion*, the political centre of gravity was not, as in England, in Parliament; but in the Magistracy and their permanent Committee, the Roman Senate. Hence, the Roman Parliament came naturally to be deprived of great influence by its powers being distributed between various Assemblies; just as the Athenians, in order to weaken their individual Judges, excessively multiplied their number. In keeping with this tendency, the Roman people assembled in the *Comitia Centuriata* for taking votes on the basis of wealth; in the *Comitia Tributa* votes were taken on a national basis of universal suffrage actually carried out; and in the *Concilia Plebis* there was practically a class-vote. By thus splitting up the functions of one Parliament into functions of several Parliaments, the political centre of gravity of Rome, *i.e.* the Magistracies, were left unimpaired in their immense power.

These assemblies decided on three kinds of public

[1] At least since 212 B.C. Compare A. Bouché-Leclercq, *Les pontifes de l'ancienne Rome* (Paris, 1871), pp. 324, etc. See Livy, xxv. 5; xxxix. 46; xl. 42.

matters: (*a*) *creatio magistratuum* (election of magistrates); (*b*) *judicia* (judicial matters); (*c*) *populi jussa* (laws).

(*a*) *Elections.*—The *Comitia Centuriata*, presided over by a consul, or an extraordinary magistrate in lieu of a consul, elected the consuls, praetors, and censors; and likewise the temporary (*extra ordinem*) magistracies of the *Decemviri legibus scribundis* (committee of ten for making laws), and the *tribuni militum consulari potestate* (or a board of temporary highest magistrates in lieu of consuls, who did not possess the full dignity of a consul.)[1] The consent of the Senate (*patrum auctoritas*) to elections made in the *Comitia Centuriata* was requisite at first after, and since the *lex Publilia* (339 B.C.) and the *lex Maenia* (probably first half of the third century B.C.) previous to the polling.[2] In this way the consent of the Senate became a mere formality. There were elected at the *Comitia Tributa*, presided over by a consul, an extraordinary magistrate, or a praetor: (*a*) the quaestors since 447 B.C.; (*b*) the *curule aediles*, since 367 B.C.

[1] Thus a *tribunus milit. cons. pot.* was never accorded the privilege of a triumph. Zonaras, vii. 19.

[2] The precise meaning of "*patrum*" in "*patrum auctoritas*" is one of the most controverted points of Roman constitutional history. Niebuhr, Schwegler, and others interpret the term as comprising the patricians assembled in *Comitia Curiata*; Huschke, Mommsen, Madvig, and others, as the patrician senators only. Willems identifies *patres* with senators generally (including plebeian senators), as had been done by older historians and philologists. More important than this discussion is the fact, that the presidents of the *Comitia Centuriata* for purposes of elections had rights that placed the elections, at any rate previous to the stricter *leges annales* of the second and first centuries B.C., practically in their hands. They accepted or refused a candidate just as they pleased; and if a candidate, whom they discountenanced, was nevertheless elected, the President could annul the election by refusing to announce (*renuntiare*) its result. In J. Rubino's masterly *Untersuchungen* (1839) there is a most instructive chapter on this vital point (pp. 13-106, 296 *seq.*).

(when they were first instituted); (*c*) the other minor magistrates (*XXVI. viratus*); (*d*) temporary minor magistrates; and (*e*) the *tribuni militum* since 362 B.C. According to Willems (whose opinion is opposed by Mommsen), the elections made at the *Comitia Tributa* were never subject to the consent of the Senate.[1] At the *Concilia Plebis Tributa*, presided over by one of the tribunes, the tribunes and aediles of the *plebs* were elected. These elections were likewise not subject to the consent of the Senate.

(*b*) *Judicial Matters.*—The Romans, with whom the life of individual citizens was a matter of infinitely greater importance than with us, owing to the incomparably greater value of the membership in a city-state like Rome (comp. pp. 70, etc.), would not invest any one civil magistrate[2] with the power of passing sentence of death on guilty citizens. They therefore decreed as early as 509 (or 500?) B.C. that: "*Ne quis magistratus civem Romanum adversus provocationem necaret neve verberaret.*"[3] That *provocatio* (appeal) was made to the *Comitia Centuriata*. The XII Tables (450-449 B.C.), abolishing the appeal, made the *Comitia Centuriata* the court of first and last resort in capital matters. Appeal to the *Comitia Centuriata* was granted in other criminal matters by various subsequent laws. The *Comitia Tributa* could, it appears, after the XII Tables, pronounce sentence only on such criminal matters as terminated in the imposition of a fine (*multa*) not exceeding one-

[1] There is no explicit passage of the ancients on that point. Willems, *Le Sénat de la République Romaine* (2nd ed. Paris, 1885), ii. pp. 87, etc.; Theod. Mommsen, *Röm. Forschungen*, i. 158, etc.; Christensen (wavering) in *Neue Jahrb. für Philol.* cxiii. p. 521 (1876).

[2] Magistrates with military *imperium* could sentence to death their soldiers during the Republic.

[3] Cicero, *De Republica*, ii. 31; Livy, x. 9.

half of the culprit's fortune. The *judicia populi*, or sentences passed by the people assembled in *Comitia Centuriata*, could not be reversed by the Senate.[1]

(*c*) *Laws.*—The distribution of the legislative power between the various *Comitia* was not as distinct and clearly marked as that of the judicial functions.[2] Down to the *lex Hortensia* (286 B.C.) the bills (*rogationes*) put before the *Comitia Centuriata* were mostly political and constitutional. After 286 B.C. the legislative functions of the *Comitia Centuriata* became more and more restricted, but the *lex de bello indicendo*, and the *lex de censoria potestate*, always belonged to those *Comitia*. By the *lex Publilia Philonis* (339 B.C.) the consent of the Senate had, contrary to previous custom, to be obtained before the voting in the *Comitia Centuriata* had taken place. Regarding the *Concilia Plebis*, which in the last three centuries of the Republic became the chief legislative organ of the Romans for matters both of political and of civil law, we read of three different laws (*Valeria Horatia*, 449 B.C.; *Publilia Philonis*, 339 B.C.; *Hortensia*, 286 B.C.) rendering the decrees of those *concilia* obligatory on all Romans. The precise relation of the three laws is obscure. The legislative functions of the *Comitia Tributa* (which are wholly denied by Madvig[3]) were practised chiefly under the presidency of the praetor. The Senate, especially in the last century of the Republic, had the customary power of declaring a *lex tributa* unconstitutional.[4] For their laws the

[1] Livy, iv. 7—although this passage does not prove the statement in the text explicitly. There is not, however, any example in Roman history to the contrary.

[2] P. Willems, *Le droit public romain* (Louvain, 1883), p. 178.

[3] Madvig, *Verf. u. Verwaltung des roem. Staates*, i. 235, note ***.

[4] Examples: of the *lex* of L. Appuleius Saturninus (100 B.C.), and the *lex*

Romans had two current terms: *lex* and *plebiscitum*. "*Lex est quod populus jubet atque constituit. Plebiscitum est quod plebs jubet atque constituit*" (Gaius, *Inst.* i. 3). Bills in ancient Rome had to be proposed by, and could formally originate with, the presiding magistrate only, the *auctor*, or *lator legis*. To propose a law was called *ferre legem*; to submit it to the vote, *legem rogare*.[1]

Besides the organised *Comitia* mentioned above, the Romans had so-called *contiones*, or free assemblies of citizens, convened by any one of the magistrates for the purpose of submitting a project of law, or any other political measure, and for the discussion of it. These *contiones* were a necessary complement of the *Comitia*, where discussion was not admitted; they were therefore the more frequent the quicker beat the pulse of public life in Rome.

The other great organ of the Roman State was the Senate. The meaning attaching to this term either in the Middle Ages or in modern times differs widely from the meaning it obtained with the Romans. Under the kings (*i.e.* previous to 509 B.C.) the senators formed a council of patricians with no very great influence. During the Republic the Senate became by degrees *the* active organ of the Roman commonwealth. Internally Rome was strengthened and kept within the bounds of natural growth by her *Comitia* and magistrates; externally she was guided and wisely controlled by the Senate. In fact, the

of Livius Drusus (91 B.C.) the Senate declared: "*ea lege non videri populum teneri.*"

[1] During the time of the Republic a great many *leges* were passed. The best lists of those laws will be found in Rudorff's *Römische Rechtsgeschichte*, vol. i. §§ 10-44; and L. Lange's *Röm. Alterth.* (2nd ed. in *index legum* at the end of third vol.; 3rd ed. in vol. ii. pp. 597, etc.). Lange gives also bills that were not passed.

great success of Rome is to a large extent due to the fact that she had suitable organs, not only for her home-life, like many a Greek city-state, but also, and chiefly, for her foreign politics. Thus the conditions both for inner growth and outer expansion were given. Many a great nation has lost its independence from the lack of properly trained and equipped ministries for foreign policy; such as Carthage in ancient times, and Poland in modern times. The Romans avoided the mistakes of other republics, which, as a rule, shine more in home than in foreign politics. The United States of America, for instance, have to the present day no proper organ for foreign politics; and did their geographical position not protect them, they would very soon suffer from the consequences of that shortcoming in their present constitution.[1]

At first the senators were appointed by the consuls and consular tribunes; by virtue of the *lex Ovinia* (a *plebiscitum* shortly before 312 B.C.), this was henceforth done by the censors. According to Willems, no plebeian became a senator before 400 B.C. This, however, as well as the precise meaning of the term *patres conscripti* for the senators, is controverted.[2] So is also the meaning of the *lex Ovinia*, which ordered the "*lectio*" of senators to be made "*ex omni ordine optimum.*" At any rate, this much is evident, that

[1] The Americans generally advocate the so-called "Monroe doctrine," that is, they abstain from interfering with European or Asiatic politics. This is only another way of putting the above statement of the text. It is superfluous to remark that the American Senate, whether federal or State, is absolutely different from the Senate of ancient Rome.

[2] According to Ihne and Willems, *conscripti* is a participial adjective meaning the enlisted senators; according to the majority of historians, it is a participial noun denoting the plebeian senators, *patres* (in the phrase *patres conscripti*) meaning the patrician senators.

incumbents of curule offices had, after the expiration of their term of office, a constitutional claim to a seat in the Senate. The censor, therefore, did not create all the senators at will, but only nominated such officials as had been made curule magistrates at the popular elections. He had, however, the power of excluding from the Senate physical or moral cripples. Even during the fourth century the patricians formed the most influential members of the Senate. From the following patrician *gentes*, senators were drawn during the fourth century: the Fabii, the Cornelii, the Valerii, the Manlii, the Papirii, the Sulpicii, the Aemilii, the Quinctii, the Servilii, the Veturii, the Julii, the Cloelii, the Horatii, etc., making a total of 29 patrician *gentes* represented by 110 to 111 curule senators.[1] Of plebeian families during that same period the most noteworthy were: the Licinii, the Poblilii, the Poetelii, the Genucii, the Junii, the Claudii, the Aquilii, the Duilii, the Maenii, the Marcii, the Sextii, etc.; or 28 *gentes*, with 43 (or 42) curule senators.[2] The cause of the great efficiency of the Roman Senate was, in the first instance, due to the fact that it was chiefly composed of magistrates whose terms of office had expired, and who had therefore a practical and not a merely theoretical knowledge of public affairs; and secondly, to the fact that all senators held their dignity for life. Thus constantly trained by solemn proceedings in actual politics, many of them became consummate artists in the handling of political questions. Their number was

[1] Willems, *Le Sénat*, i. 96-103. Previous to 381 B.C. a little over 100 *gentes* are mentioned in Roman history. Willems, *Le Sénat*, i. p. 88. That is, of the above *gentes* we have historical records.

[2] *Id. ib.* pp. 104-108.

originally 100, or 300; this number was subsequently increased, first to 600 (88 B.C.), and then to 900 under Caesar. Under Augustus they again numbered 600. The Roman Senate was, at any rate in times previous to Sulla (88 B.C.), an assembly of almost hierarchically graded councillors, the patrician members of which enjoyed more rights and honours than the plebeian members, the curule senators more than the non-curule, the older members more than the younger. In fact, plebeian senators who had never been incumbents of curule or other magistracies could not, according to Mommsen,[1] plead in the Senate. They had no *jus sententiae dicendae*; theirs being only the right of swelling the number of voting members on one side of the hall or on the other. Such inferior members were called *pedarii*. Willems, Monro, and many other scholars do not agree with that opinion. They admit that since the higher grades of the senators were, in set order, called upon to speak first, and since the president of the Senate could close debates at will,[2] it follows that subjects were practically exhausted and threshed out long before they could reach the inferior members. That the latter, however, should have been deprived not only of the opportunities but also of the very right of joining the debate is, according to Willems and others, incorrect or doubtful. Mommsen's arguments[3] are strong from a philological standpoint, but not quite convincing from considerations of constitu-

[1] Mommsen's predecessors were Fr. Hofmann, *Der röm. Senat* (Berlin, 1847), pp. 22, etc., and Rein (article "Senatus" in Pauly's *Real-Encyclopaedie*).

[2] Willems, *Le Sénat*, ii. 190. Mommsen denies that (*Staatsrecht*, iii. 983, note 2), without giving any evidence at all.

[3] See especially his *Roem. Staatsr cht*, iii. 2 (1888), p. 840, note 2, and pp. 962, etc.

tional law. In any case, the immense advantage accruing to Rome from the fact that the senators who entered into the debates were generally men of long-standing experience in public affairs is conspicuous, whether we accept Mommsen's view or no.

In Rome, as in all other ancient city-states, social and political privileges were welded together. The senators accordingly had particular seats in the *Circus*, and since 194 B.C. at the scenic performances too. They wore red shoes and a golden ring; and jurors were taken from amongst them exclusively till late in the second century B.C. The relations of the Senate to the popular Assemblies have been treated above. In its relations to the magistracies of Rome the very essence of the Senate becomes more markedly evident. For the Roman Senate was, in point of constitutional law, always a consultative body only. It did not have a president of its own choice, the presiding official being one of the high magistrates that had the right of *referre* to the Senate: the consuls, the praetors, and (since about 350 B.C.) the tribunes of the *plebs*. (The extraordinary magistracies, such as the dictator, *interrex*, etc., had also the *jus cum patribus agendi*.) The Senate could not command the Executive to carry out its orders; nor could measures originate with it. Since only such measures were debated and voted upon by the senators as the presiding magistrate chose to submit to them; and since, moreover, that magistrate could, by his refusing to *pronuntiare* a hostile vote, or by the *intercessio* of another magistrate thereto entitled, stop or annul proceedings or votes, the power of the Senate was, it might be concluded, a most restricted one. Yet, as

a matter of fact, that power, during the last three centuries of the Republic, was very considerable. It might be advanced that open conflicts between magistrates and the Senate are but seldom reported in our sources. Yet it is certain that intense conflicts were, whether under the surface or above board, the rule rather than the exception. The whole constitution of Republican Rome is a fighting constitution. The Senate, in addition to the constitutional means of thwarting opposition (such as invoking against a refractory president the *intercessio* of a *tribunus plebis*, etc.), had the authority and moral weight of a permanent Committee against annually changing magistrates. Far from continuing to wield a merely academical power, the Senate appropriated, by insensible degrees, very considerable powers. In religious matters, the high magistrates of Rome were originally empowered to direct the arrangement of religious state-ceremonies, and to stave off the intrusion of foreign cults. The Senate soon encroached upon that domain; the augurs, and through them the power of baffling, for religious reasons, any inconvenient act, came under its sway. In political matters, too, the conclusion of State-treaties, originally incumbent upon the high magistrates, soon devolved upon the Senate. And when money-grants for public games, edifices, etc., had become their customary right, the senators, controlling the religious feeling and the finance of Rome, easily acquired very great influence over the levying and employment of the army; the organisation of conquered provinces; the appointment of provincial governors; the despatch and reception of "high commissioners" (*legati*); and the assign-

ment of a triumph to the victorious generals, who, as a matter of course, sent their reports to the Senate. Thus the whole of the foreign politics and a great deal of the financial and religious home-administration came to be regarded as belonging to the normal functions of the Senate, which in moments of great public peril could urge the creation of a dictator; or, when dictators ceased to be created (in the last two centuries of the Republic), could invest the consuls with dictatorial power, with the famous formula: *viderent consules ne quid detrimenti respublica caperet.* The Senate did not even stop there. It could not but acquire considerable legislative power too. The decrees of the Senate were called *senatusconsulta*, or advice given by the Senate. We still possess the originals of some of them,[1] and of many more we have historical evidence.[2] They comprised both public and private law, and were, like every other function of the Senate, recognised as law, not by statute but by the weight of custom. It is in the history of the Roman Senate that we can trace with great facility that inexacting attitude of the Romans towards the Powers that mould History. Trusting little to the anxious ingenuity of Man; the Romans, like the English, left in all their institutions a broad margin for compromises, chance arrangements, and opportunity. On the power of one of their chief institutions, the

[1] The *Senatusconsultum de Bacchanalibus* (a bronze table, incomplete, from 186 B.C., now at Vienna); the *SC. de Tiburtibus*, from 159 B.C. (Mommsen), found in the sixteenth century at Tibur, now no longer extant (hidden?); the *SC. de Asclepiade Polystrato Menisco*, now at Naples. In 1875 fragments of a *SC.* regarding a *pagus Montanus* were found. Other fragments in Hübner's *De sen. actis*, in Fleckeisen's *Jahrbücher f. class. Philol.* 3, *Supplement-Band* (1857-1860), pp. 623, etc.

[2] See the list in L. Lange's *Röm. Alt.* II[3] 436, etc.

Senate, they never seriously attempted to set strict limitations. It grew more by the shock and stir of uncontrollable events than by the systematic tending of its founders. Scientifically arranged constitutions have the beauty and regularity of crystals; but also their brittleness.

The rights of the high Roman *magistratus* were:—

(*a*) The *jus auspiciorum*, or the right of demanding of *Jupiter*, as the highest god, to reveal his will to the magistrate standing in the hallowed square (*templum*), by the flight of birds, or by the movements of animals (such as the mode in which fowls ate their food), by meteorological phenomena, like lightning and thunder, and similar things. This *spectio* was originally the right of patrician magistrates only, who had to practise it previous to any important act, such as elections of magistrates with *imperium*, popular assemblies, battles, etc. The assisting priests at these ceremonies were the augurs. In later times the Romans used to consult the Grecian oracles, especially that of Delphi. This, however, was always exceptional and rare. In Rome, as was remarked above, everything came to be subservient to the State—law as well as religion. To procure, like the Greeks, divine advice on State-matters from outside the State, would have been entirely incongruous with the very essence of Rome. The Romans never assembled at great festivals, amusements, or "Olympian" games somewhere in Italy, but celebrated all their feasts and anniversaries within the territory of Rome. Similarly, they did not sever the *auspicia* from the person of Roman magistrates. Their Delphi was embodied in their various *magistratus*.

(*b*) *The chief command of the army* (*Imperium*).—The Roman army was not, like the armies of nearly all modern nations, a corporation of its own, the lower officers of which are appointed by higher military officers, practically independent of either Parliament or the Executive. The *tribuni militum* were (certainly in the third century B.C.) elected by the people, and hence the officers of a Roman army were magistrates and not purely military officials. The magistrate possessing the *imperium* was the military, judicial, and political head of his army, and, although largely controlled by the Senate, he nevertheless wielded very considerable powers. After decisive victories, his own army, or, as a rule, the Senate, could accord him the title of *imperator* (the last of the generals to receive it was Q. Junius Blaesus, 22 A.D.), and the public *triumph*.

(*c*) *The right of coercion and fining.*

(*d*) *Jurisdiction.*—In the seventh century of the city, *quaestiones perpetuae*[1] or Assizes were established, which altered considerably the position which Roman magistrates had occupied till then in criminal trials. As to jurisdiction in civil matters, the consuls had, down to 367 B.C., been the chief judges. In that year the administration of justice was given to the *praetor urbanus*, and subsequently, in 242 B.C., for lawsuits in which foreigners were involved, to the *praetor peregrinus*. Both published at the outset of their year of office certain rules and decrees, according to which they promised to proceed. These *edicta* became in course of time the richest source of Roman private law, and hence of the private law of most nations on the continents of Europe and

[1] *Quaestiones perpetuae* were instituted in 149 B.C.

America up to the present day. The praetor did not pass final judgment on a case of law; assisted by his *consilium* of expert jurists, he drew up a document (*formula*) in which the judge (generally one citizen, sometimes three, never twelve) was advised to investigate certain most concisely and precisely worded statements of both fact and law, after which he (the judge) was either to acquit the defendant or declare him liable to pay a certain sum of money to the plaintiff.

(*e*) *The right of convoking, presiding over, and controlling the meetings of the comitia and the Senate* (*jus agendi cum patribus et cum populo*).

(*f*) *The right of transmitting for a time his official power to his colleague, to some other magistrate, or even to a simple private citizen* (*mandare imperium*).—This right again, although it was mainly practised in cases of necessary absence, would be and is utterly incompatible with modern State officialdom. To the latter it would appear as absurd as the temporary transmission of his public function to a third person would have seemed to a Roman senator or augur. If, however, we pause to think that the Roman *magistratus* was, as will be seen in the *Discussion*, a function analogous to that of modern parliamentary representatives—that is to say, that it was not of a derivative but of an original nature, having been conferred or delegated directly by the people,—the *mandare imperium*, both in civil and in military matters, becomes just as intelligible as the appointment of commissions by modern parliaments.

During the Republic, Roman magistrates for the city of Rome herself had no salary whatever—their office was strictly *honos*. The governors of provinces

drew a salary under various titles. The *honos* was expressed by a special costume, especially by the toga lined with or made entirely of purple, whereas ordinary citizens wore white togas. All higher magistrates, other than the plebeian, were preceded even in their private excursions by from one to twenty-four lictors, who, walking in single file, carried on their left shoulders the *fasces* or bundles of elm-twigs, from which protruded, when outside the city, the axes. The dictator's twenty-four lictors wore the axes even within the *pomoerium*, or boundaries of the town. The *fasces* had to be lowered before the public Assembly. In exercising his magisterial rights, the higher *magistratus* used the *sella curulis*, a backless chair, probably of ivory. At public games and festivals they had particular seats of honour. Even after death their painted masks of wax, generally placed in wooden shrines in the *atrium* or chief hall of the house, were carried, preceded by lictors, at the funerals of their distant relations, to whom this custom of carrying the waxen portraits of their ancestors (*jus imaginum*) gave, in the latter part of the Republic, the right of the new nobility. Thus the Roman magistrates, like the peers of England, founded a magisterial nobility. With the exception of the *dictator* and *censor*, who were practically irresponsible,[1] all Roman *magistratus* could be made responsible at the expiration of office for injuries or crimes committed against communal interests or private citizens by means of an action in court, since 149 B.C. in special courts.[2] The accounts

[1] Yet see the cases to the contrary in Livy, xxiv. 43, and xliii. 16.

[2] The Romans did not raise, as do most Continental nations, the State-officials above the possibility of being sued by citizens for damages, etc., in

of officials of the Exchequer were always audited on their leaving office. As in all governments, the leading members of which are constantly changing, subordinate officials (*apparitores*, and amongst them chiefly the *scribae*), who generally kept their places for life, maintained, owing to their experience and knowledge of routine, a large influence. In Rome they were organised into various colleges.

The chief condition for any candidate of a Roman *magistratus* in the Republican period was, especially after the equalisation of the two classes, an immaculate respectability. This intense sensitiveness as to the private and public life of persons seeking office was carried in Rome to the utmost limits. We shall hear later on how this extreme delicacy as regards public morality reacted on Roman law. The office of a censor could not be held twice; minor magistracies were not held twice by custom. The succession in which magistracies could be competed for or held was fixed probably by the *lex Villia* (180 B.C.); it required that the *quaestura* preceded the *praetura*, and the latter the consulate. Since the beginning of the sixth century *urbis conditae*, the order of succession to the magistracies was: *tribunus militum*; *vigintisex viri*; *quaestor*; *tribunus plebis*; *aedilis*; *censor*; *magister equitum*; *praetor*; *interrex*; *consul*; *dictator*. The age of seven and twenty, or rather thirty years, was probably the lowest limit for candidates of the minor offices. During the Republic there are only a few cases of men becoming consuls at an age younger than

the ordinary courts of law. The Romans had practically the English system, according to which an official can be sued for damages or injury done to citizens in the same manner as can any other citizen.

forty-three years. When the name of the successful candidate for a magistracy had been *renuntiatum* (announced by the magistrate presiding over the Assembly), he was generally only a *designatus* (magistrate-elect); the actual accession to his office took place somewhat later. Offices were usually for one year; suspension from office (*abrogatio magistratus*) was extremely rare, and the public Assembly alone could decree it. This, too, is a natural consequence of the nature of the Roman magistracy, which, like modern parliaments, can be "dissolved" by the highest power in the State alone.

We shall now treat of the particular magistracies:—

1. The two consuls (one being a plebeian, since 367 B.C. by law, and since 342 B.C. in fact) were the highest regular dignitaries in Republican Rome. The year was designated by their names. Each of them might appoint a dictator. They submitted Bills to the Assembly; issued edicts; convoked and presided over the Senate, whose *consulta* they carried out. Before the institution of the *praetura* (367 B.C.) the consuls were the judges in Rome; after that time they could still administer jurisdiction on non-contentious points of law—for instance, manumission of slaves, adoption or emancipation of house-sons, and even in criminal matters they not infrequently had jurisdiction. Religious functions were also amongst their duties—such as the arrangement of sacrifices, expiation of the divine wrath manifested in *prodigia*, etc. Their military functions were paramount. In the earlier period of the Republic they levied troops in Rome and Italy almost independently,

and in many cases they declared war on their own responsibility.

2. *The Dictator.*—In every city-state where the magistracy is elected by the people, and therefore invested with supreme rights of administration or jurisdiction, the conflict between the numerous incumbents of practically autocratic offices necessarily becomes a source of great danger to the commonwealth, especially in times of war. It is, therefore, only natural that the Romans, probably in the earliest periods of the Republic, created an office, the incumbent of which was raised over all the conflicting magistrates, in order that he might overcome the turbulency of the latter, and thus render the State more impervious to inner dissensions. That exceptional office was the *dictatura.* The dictator was appointed for six months only, and was not allowed to leave Italy. He had supreme power in the field, and was aided by the *magister equitum*, whom he appointed himself. As to administration and jurisdiction, he wielded very great, if not boundless power, there being, it seems, no appeal from his decisions, either to the *comitia* or to the tribunes. He was preceded by twenty-four *lictores* carrying the *fasces* with the axes. It follows from the very nature of a dictator that he could have had no colleague; his existence being chiefly due to the evils of collegiate offices.[1] In addition to this, the true dictator, the Roman constitution had civil *dictatores imminuto*

[1] It is true that in 216 B.C. M. Minucius became the equal of the dictator Quintus Fabius, whose *magister equitum* he was, and Polybius (iii. 103) calls Minucius too *dictator.* The accuracy of that appellation has been doubted for the reason stated in the text; however, an inscription discovered some years ago (*Corp. Inscr. Lat.* vol. i. p. 556 *infra*) has corroborated Polybius' statement. In 216 B.C. the *dictatura* was nearing its end; hence the exceptional appointment of two dictators.

jure, such as the one appointed *clavi figendi causâ* (solemn driving of a magic nail into the door of a temple, mainly after national calamities), *ludorum faciendorum causâ, feriarum constituendarum causâ*, etc.

3. The consular tribunes, as a rule six in number, were extraordinary but legitimate magistrates, elected by the Assembly, in lieu of the consuls, whom they were meant to replace at a time when the plebeians, who could become consular tribunes, were not yet admitted to the consulate. In 367 B.C. the office was abolished.

4. The two praetors, although occasionally the generals of Roman armies, were chiefly judicial magistrates, especially for civil, but also for criminal cases. Their number was subsequently increased, first to four (227 B.C.), then to six (197 B.C.), and finally, under Caesar, to sixteen. Since the time of Sulla they became, after the expiration of their year of office, governors of provinces under the title of *propraetores*. Formerly, provinces had been governed by praetors proper. Their chief function was to administer and develop the law, called the *jus honorarium*, as contrasted with the other main branch of Roman law, the *jus civile* proper. The praetors, or rather the jurists forming the *consilium* of the praetor, were continually proposing new modes of procedure and new lines of substantive law, in order to improve upon and complement the unyielding rigour and formality of the old common law (*jus civile*) of Rome. In that they were most successful, and the edicts of the praetors raised Roman law above the laws of all other ancient nations. The praetor was both a magistrate and a law-giver; and although modern theorists have declared the separation of executive

from legislative functions to be the height of political wisdom, the Romans have proved the contrary in nearly all their offices, and chiefly in the *praetura*. Applying the old, and creating the new law as he did, the praetor kept in constant touch with actual facts of life, and thus avoided the rocks on which modern theoretical legislators generally founder. The *edicta praetorum* were thus admirably adapted to the exigencies of actual life; hence their enduring value.

5. The two censors were established in 443 (435, Mommsen) B.C. They had mainly two functions: (*a*) the taking of the census, together with the taxation of the citizens and the appointment of senators; (*b*) the moral control of the citizens. They had no *imperium*. Being irresponsible, they could not act unless both were agreed on a measure; and if one of them was prevented from acting, either by death or any other cause, the other had to abstain from all censorial activity. The census was taken every fifth year, sometimes every fourth year. Every citizen *sui juris* (*i.e.* such as were not in the *manus* or complete legal power of their fathers or grandfathers) was obliged to declare on oath what property he owned. By property only *res mancipi* (see note 1, p. 30) were understood in earlier times; later on all kinds of property were meant. On the census thus taken was founded the taxation of the citizens. The taking of the census was terminated by a religious ceremony called the *lustrum*, after which the censors ceased to be officials. For the rules of the election of the Senate (*lectio senatus*), see p. 39. The censors were the financial executive of the Senate. Regarding the moral coercion practised by the censors, it is sufficient to say that in the case of private or public immorality,

excesses, or lawlessness of any kind, the censors could affix a censure, called *nota*, to the name of a citizen on the lists of the census, and thereby materially damage his reputation (*existimatio*), or remove him from a higher to a lower voting class (*tribus*).

The apparently strange connection between the financial and moral functions in the office of the Roman censor is a very logical consequence of the timocratic character of the Roman commonwealth. There being in Republican Rome no other life than public or State life, and the participation in the latter being dependent on the census or financial condition of the voter, it followed as a natural consequence that citizens who had rendered themselves objectionable should be punished in what they would be most anxious not to lose, that is, in their rights of belonging to the higher or ruling classes of voters. The distribution of voters into classes being the function of censors, it was quite natural that they should also be the moral judges of the citizens. In the fourth, third, and second centuries B.C. the *censura* was accordingly considered the highest, if not the most powerful of the State-offices. In modern times Society and State have been differentiated to such an extent, that moral censure publicly pronounced by any other than "public opinion" or the clergy is considered somewhat ridiculous, or at any rate as ineffective. In Republican Rome, however, as in all city-states, Society and Religion had no distinct existence of their own at all. The office of the censor is the clearest evidence of that intimate union of State, Religion, and Society; and the fact that the censorial *nota* or reprobation never extended to

women (that is, the mere inhabitants, but not the citizens of the State), accentuates still more strongly the real character of the Roman censor, who was at the same time an official of the Exchequer and a spiritual controller.

6. The office of ten *tribuni plebis* was first established in 494 B.C. by a *lex sacrata*, or a law, the contravention of which, it would appear, made the culprit an outlaw. It is said that the *plebs*, unduly harassed by the exactions of their creditors, the patricians, "seceded" from Rome and repaired to the *mons sacer*, near Rome. The patricians finally prevailed upon them to return to Rome, granting them at the same time the election of two (subsequently ten) plebeian tribunes, who were to defend the plebeians from the aggressiveness of the patricians in general, and from that of the (patrician) consuls in particular.[1] They had no *imperium*, nor the highest *auspicia* (*impetrativa*); and their power developed *rebus ipsis dictantibus*, like that of the Senate. Their rights originally were: (*a*) to convoke and preside at the plebeian assemblies; (*b*) to tender *auxilium* at the request of an individual citizen against the action of any magistrate within the first milestone from Rome. To that effect they were forbidden to leave Rome for a whole day, and their domicile was to be open day and night. From this right of *intercessio*, manifested at special request, there developed a general right of interfering, or rather stopping any measure or decision taken by the *comitia*, the magistrates, or the Senate, probably by the utterance of the

[1] The chief sources for the rise of the tribunes are: Livy, ii. 32, 33; Dionys. Halicarn. vi. 89, etc.; Cicero, *de Republ.* ii. 33, 34; and the excellent commentaries to some of Cicero's orations by Asconius (first century A.D.), especially to the lost oration *pro C. Cornelio*.

single word "*veto.*" The various phases and stages in the rapid growth of this vast privilege of the tribunes are unknown. (*c*) *Coercitio*, or the right of seizing, fining, or punishing individual citizens or magistrates. In keeping with, or rather the basis of, their immense ascendancy in the State was the law that they were *sacrosancti*, or personally inviolable. Their *potestas* or positive competency proper was, in conformity with their rather negative character, not very considerable in times previous to the equalisation of the two orders. After that time, or in the last 200 years of the Republic, they displayed much legislative activity in the *concilia plebis* and great influence in the Senate, and in criminal jurisdiction; more especially in the impeachment of late high officials, particularly generals who had been guilty of bad, cowardly, or irreligious conduct of war. Tribunes could be impeached on the expiration of their year of office for misconduct.

7. The two *aediles plebei*, established simultaneously with the *tribuni plebis*, were the assistants of the latter, and could be elected from amongst plebeians only. They, too, were *sacrosancti*. In 366 B.C. two so-called *aediles curules* were added; an office for which, at first, patricians alone were available; later on they alternated with plebeians. Both kinds of *aediles* were entrusted with the police-control of the market, the general trade, the slaves, the sumptuary laws, the roads, the public buildings, and especially the public games. Through the arrangement of the latter, the *aediles* wielded much political influence over the crowd.

8. The *quaestores*—originally two; since 421 B.C., four; since 267 or 241, eight; and later on, even

twenty (under Sulla), and forty (under Caesar)—were at first assistant judges in criminal cases, but in historical times, chiefly officials of the Exchequer, who guarded the bullion and money of the State, collected the taxes and other sums due to the commonwealth for leases, tribute, etc. They were also the constant assistants of generals in the field, and of provincial governors; the *propraetor* of Sicily alone having two quaestors, the other governors one. About the precise functions of the various quaestors, whose official titles have come down to us, we have very scant and unsatisfactory information.

9. The *viginti-sex viri* formed six boards of minor officials in the judicial, financial, police, and administrative departments.

It follows from the representative character of the Roman magistracies that the Romans were averse to multiplying indefinitely the number of magisterial offices, just as modern nations are little inclined to multiply the number of members of parliament. The constantly increasing needs of the commonwealth, however, demanded new organs. This the Romans met by the creation of a great number of assistants or deputy-officials, as it were, both in military and civil offices. Of such the most important were: the *tribuni militum a populo*, or officers elected by the people; the *duoviri navales*; the *duoviri perduellioni judicandae*, judges, first appointed, then elected for trials of seditious plots against the State; the officials for the establishment of colonies (*coloniae deducendae*), etc.

B. Discussion of the Roman Constitution

I

On reading the history of ancient Rome, whether in Livy, Diodorus Siculus, Dionysius of Halicarnassus, or in some modern work, the student cannot but feel that much that excites his serious curiosity remains still unexplained. The immense labours of the last-century authors on Roman history may or may not have been successful. Niebuhr, Mommsen, Sir George Cornewall Lewis, Schwegler, Bonghi, or Pais may or may not have succeeded in proving or disproving the famous stories of Coriolanus, of the 306 Fabii, of the first Samnite war, or of some other incident of old Roman history. One sting, however, still remains. Nobody denies the historical existence of the institutions of the tribunate, of the *censura*, or of the consulate; nobody denies that Rome was, if with some interruptions, more successful in politics and conquest than any other State before or after; but we are still very far from grasping ancient Roman institutions and the unique political success of Rome in Italy and the Mediterranean world with anything approaching to satisfactory clearness.

In fact, the nature of the chief political institutions of ancient Rome is, as described in the most sceptical and critical of modern historians, absolutely incomprehensible. Unless one acquiesces in the poor consolation that "different nations have different institutions," and that it is therefore superfluous to trouble about the causes of a constitution, the strangeness of which is what we ought "naturally" to

expect, one cannot but wish for more light in the study of Roman history, both institutional and political. Wheresoever we direct our attention, we are invited to accept as probable what all the experience of history and of our own time has taught us to consider as unlikely. About contradictions chronological or biographical in the sources themselves, enough has been said in German works. We here do not allude to them. What is meant are psychological impossibilities or improbabilities in the generally accepted facts of early Roman history. If, for instance, we should be called upon to assume, for the times of King Alfred, a degree of *officialisation* (*Verstaatlichung*) of the whole of the life of the then Anglo-Saxons, such as even the most bureaucratical modern State on the Continent does not display, we should firmly refuse to accept such an assumption. Yet, for early Rome, certainly for the fifth century B.C., we calmly accept such a wholesale *officialisation*; and professional historians do not appear to behold that curious precocity of political life in Rome as anything necessarily disturbing their composure. It is, nevertheless, a most startling, not to say inexplicable historic phenomenon. In tracing all the extant sources of Roman history as far back as we may, we are struck, or certainly ought to be, before everything else, by the excessive extension of the power of the State over all the life of the Romans. In modern times, we note that there is, in England, only a moderate amount of bureaucratised State-power, and in France or Germany, where State interference is very much more considerable, it is not yet all-absorbing. We saw that in ancient Greece, where the State laid its hand on most things, yet there

were important social and intellectual departments of life entirely uninterfered with by the State proper. In Greek, in mediaeval, and also in modern States, we see innumerable corporations, guilds, clans, marks, *gaue*, townships, *septs*, and other local centres of minor gregarious activity, not only within, but as a rule antagonistic to the State. As the greatest student of the history and law of associations (*Genossenschaften*), Professor O. Gierke, has tersely put it, the modern State, more especially the Germanic, arose from a slow and still incomplete welding together of innumerable small associations of men endowed with varying amounts of political or semi-political forces; while the process in Rome was precisely the reverse.[1]

In Rome the State was first, and all other minor corporations or *collegia* were only bureaucratic offshoots of the State. Whether it was King Numa or another king who founded the nine guilds of which we read in Plutarch's *Numa*, it is certain that the old Roman trade-guilds were not exclusive. They could not exclude, as did the mediaeval guilds, non-members from plying a craft in Rome.[2] The *gentes*, *pagi*, or any other association, local or tribal, in which individualistic and anti-State tendencies might have developed, were quickly assimilated by the Roman State, and drained of all their particularist forces. In early Roman history we hear of no such long-standing family feuds as fill the pages of the mediaeval history of Rome, Florence, or Milan with

[1] O. Gierke, *Das deutsche Genossenschaftsrecht*, Berlin, 1881, vol. iii. p. 69, note 125.

[2] See H. C. Maué, *Die Vereine der Fabri*, etc., *im roem. Reiche* (Frankfort, 1855, pp. 4 *sq.*), *apud* Voigt, M., *Die roemischen Privataltertümer* (1893, in Iwan Muller's *Handbuch d. klass. Altertw.*), pp. 302, 303.

interminable wars outside the wars of the State proper. Other Roman associations, again, such as the Salii, the Sodales Titii, the Fratres Arvales, were practically officials in the service of the State-religion. Few considerations will bring home the strange character of the early *officialisation* of Rome with greater force than a glance at the incredibly differentiated and excessively individualistic components of the commonwealth of the Dutch after they had practically, if not formally, severed their bonds of loyalty to King Philip II, in 1579. The "United Provinces" of the Dutch State consisted, in reality, of a bewildering mass of the most heterogeneous small and large bodies-politic, some of which, like Vianen in Utrecht, Ravenstein and Zevenaar in Brabant and Guelders respectively, had absolutely no community with the Union. Each town, township, (*Landschap*, approximately translated), manor (*Heerlijkheid*), or village had different institutions, different political regulations; while each of the seven provinces had in every respect a distinct political individuality of its own.[1]

It is well known that Great Britain, France, Germany, Italy, and Spain all show, during the whole of the Middle Ages, and some of them up to quite modern times, the same bewildering heterogeneity and luxuriant individualism of institutions, customs, laws, and habits. In remarkable contrast to what evolutionists attempt to prove, the formation of European States since Charlemagne's death is a constant progress, not from the homogeneous to the heterogeneous, but from the heterogeneous to the homogeneous. This progress, which required over a thousand years in modern Italy, Germany, and other

[1] See especially P. L Müller, *Onze Gouden Eeuw* (1896, '98) i. 91, 59; ii. 1, 59.

countries, and which even in small countries such as Switzerland is not yet a complete one,—this progress was accomplished in early Rome without any difficulty, *a limine*, and with unparalleled completeness. Already our oldest records of Roman history reveal the omnipotence of the State, the thorough absorption of nearly every force or tendency of man by a system of *officialisation* such as we neither practise nor can easily comprehend.

For, in early Rome, as later on, they *officialised* not only law proper, but even general morals. We do not marvel at the fact that the Romans took their law, in any case of litigation, at the hands of officials of the abstract State, because we do the same thing. We might, however, marvel that the Romans did so at a stage of growth at which our mediaeval ancestors never dreamt of abandoning their tribal, local, or family judges in order to appeal to the judges of the abstract State. But when we learn that the Romans officialised morals too; when we hear that very early in their history they gave the censors absolute, irresponsible powers of interfering with, and eventually blighting a man's whole moral existence; then we must, in common honesty, admit that we should never think of investing any State official with such a tremendous power, and that we fail to understand how the Romans could ever have done so. In modern times, infractions of common decency or moral correctness are left to the reprobation of that unwritten law of custom (*Sitte*) which all of us implicitly obey. On the Continent, where *les convenances* are much more rigidly and technically developed than either in England or in America, and where, in the institution of the duel, custom has created an executive court of

social law not infrequently severer than the law-courts of the State; on the Continent, any attempt at *officialising* the regulations of custom or *Sitte* would be resented with the greatest violence. Even the officials of the Catholic Church have never been given absolute powers as comprehensive and fatal as were the rights of a Roman censor. The popes alone wielded, at times, powers similar to that of the censors. With the Greeks, too, it is true, ἔθος and νόμος were very closely allied. Yet in most Greek city-states each of these regulating powers had a large undisturbed sphere of its own. In Rome alone they were practically one power, and that one power was wielded, not by public opinion or privately, but by two officials acting exclusively on their own independent motives.

Surely such *officialisation* of powers and opinions now left to organs of regulation outside the State, clearly indicates that the State proper completely monopolised all departments of life in early Rome. It is almost superfluous to insist on the early and complete *officialisation* of all descriptions of law in Rome. In mediaeval and later times, private law was left to agencies practically independent of the State. The members of a mediaeval village-community had their own customary law, and the exponents and "finders" of that law varied according to the subject-matters it referred to. There was a customary forest-law, mining-law, fishing-law, vintage-law, etc., and thus mediaeval law for over a thousand years was, in nature and drift, like language. It grew up, split into "dialects" of law, into local *jargons*, just like language, and quite independently of the State. Not so in Rome.

The share of customary, unwritten folk-law, with its quaint symbolism, its proverbs, feints, signs, and allegories, such as we find in superabundance in the folk-law of the Germans, Celts, Slavs, etc., was a very small one in the private law of ancient Rome. As early as the middle of the fifth century B.C., the Romans had insisted on and secured the clear, highly technical *officialisation*, or rather codification, of their private law. So that in this respect, as in so many others, Rome begins where modern States end. In the latter, codification is the final result of secular growth of customary and heterogeneous masses of law. In Rome codification of private law stands at the very outset of the career of the Roman Republic.

We have seen so far that already in early Rome, all moral, local, corporate, and legal institutions were completely *officialised*. This, however, does not exhaust the number of institutions absorbed by the Roman State. In modern times, we note that, even in countries where the State is very powerful, there are parliaments in which the *unofficialised* powers of the nation have free scope to control and check the State machinery. Parliaments, again, derive, where they are strongly developed, their main strength from vigorous party life. Modern parliamentary parties tend to rally round two centres: one, the party in power; the other, the Opposition. The conflicts and emulations of the Opposition with the other party are quite outside the routine rules of the State proper; they are completely spontaneous and *unofficialised*.

Now, what has always been the greatest enigma in ancient Rome is precisely her strange *officialisation* of the Opposition. As we have seen, the Tribunate was an organised permanent Opposition. Instead,

however, of being left, as with us, to the free play of party life, it was in Rome at once *officialised* and vested in ten tribunes, each of whom had the full powers of the Tribunate; each of whom could by his unchallenged *veto* stop any wheel of any part of the Roman State machinery. It is, of course, at once evident that political parties in Rome must have differed essentially from ours. We proceed on the undoubted and universally accepted principle that the victorious party alone has a right to the offices. In the United States even the postmen were until quite recently relieved of their posts on the victory of the party opposed to the one that had installed them four years previously. In Rome, on the other hand, the offices were held by members of both parties, so that minorities were not, as with us, utterly ignored. But with all due recognition of this great difference between Roman parties and modern parties, it still remains incomprehensible how the Romans came to *officialise* the Opposition in a manner which, to us, appears both absurd and impossible. Leaving the explanation of this problem for a subsequent part of this *Discussion*, it is sufficient for our present purpose to state that the Romans *officialised* not only morals, law, and all minor associations, but also parties and the Opposition.

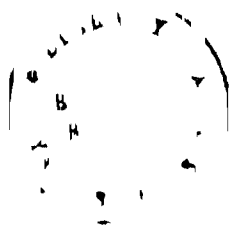
Moreover, the character and history of the Roman *clientela* is a manifest and early triumph of the Roman State over any lesser political centres. It is generally known that the *clientela* of the early Middle Ages rapidly developed into a vast system of feudalism, every organ and tendency of which was antagonistic to the rise of a strong State. In Rome, on the other hand, the *clientela* never helped into

existence the slightest inception of feudal relations. It remained a private and obscure institution.

Finally, and as a clinching argument for the very early and complete absorption of Roman life by the Roman State, it is sufficient to instance the well-known lack of all free and independent intellectual departures in Rome for over 500 years. The State, which was everything in Rome, did not need science nor literature. Accordingly there was none.

The preceding difficulties in the comprehension of the Roman constitution are not lightened by a consideration of the strange and almost academic calm maintained by the plebeians and patricians in their great struggles during the first two hundred years of the Republic. Those struggles, as is well known, were practically bloodless. This is not what either history or general observation would lead us to expect. Party strifes in highly civilised Greek city-states were, as a rule, very sanguinary, and, in not too rare cases, of fiendish cruelty. Expulsion of the defeated party from the city-state, as *e.g.* of the nobles (γαμόροι) from Syracuse, was the mildest measure resorted to by their antagonists. Frequently they were massacred outright, as at Thurii, in Corcyra or Argos, in which latter city-state the *demos* or the plebeians once clubbed to death 1500 of their aristocratic fellow-citizens. In the city-states of the Middle Ages party-struggles were, as we shall see, of the same violence both in Italy, Germany, and France; and in our own times we have ample opportunity of convincing ourselves that the *furor politicus* is not less virulent than was the *furor theologicus*. The calm and moderation, then, which Roman parties succeeded in maintaining during more

than six generations of continuous contention is one of the most startling features of early Roman history. True, Roman parties, being *officialised*, as was nearly everything in Rome, might very well be supposed to have observed the tranquillity of bureaucratic procedures rather than follow the passionate movements of free and *unofficialised* parties proper. In a State where Society and social antagonism are quite insignificant and practically absorbed by the State, party strifes lack the animus of social rancour. In Greek party struggles that animus accounts for many an excess. Yet, granting all these general considerations, we cannot but admit that we are still very far from comprehending the persistent moderation of over six generations of Romans. To ascribe that moderation, as is done even by the profound Ihering, to the "spirit of the good old time" still pervading the early Romans, is to confound a symptom with a cause. The Romans behaved well; but all human experience teaches us, that when many thousands of men all behave under trying circumstances with ideal moderation for several generations, that moderation will in all probability be either the indispensable premium paid for an advantage and satisfaction greater than could be any gratification of lawless violence, or the circumstances were not as trying as they are supposed to have been. It remains, therefore, to point out clearly that advantage; the mechanism, as it were, of that famous Roman *virtus;* the play of the levers of the Roman constitution which caused the Romans to observe that strange moderation.



II

In the preceding chapter it was intended to show what, it may be assumed, very few people are prepared to deny, that the fundamental problem of the Roman constitution, *i.e.* the early *officialisation* of nearly all the forces of the Roman people, is still an unsolved riddle. But if one is compelled to admit that the psychological improbabilities implied in the Roman *Censura*, *Tribunatus*, party life and law, grow more perplexing the more we compare Roman with mediaeval or modern institutions, one cannot at the same time but feel, that the startling inner and outer unity of Roman history, its almost logical continuity and steadiness, strongly plead for the assumption that there must be at the bottom of all Roman history a restricted number of broad and clearly discernible causes. It might be proved almost mathematically that institutions and deeds of a people, which during one thousand years steadily proceed on one and the same line both at home and abroad, cannot, according to the rules of probability, be ascribed to the concourse of an unlimited number of accidental causes. On the contrary; the greater the unity and the continuity, the smaller must be the number of causes and the more plastic and intelligible their nature.

The unity of Roman history is indeed exceedingly striking. It has, as a rule, been lost sight of, because it can become quite manifest only to him who commands a fair knowledge of Roman law, private and public, together with Roman history proper. Before giving the less obvious instances of that profound unity of Roman history, it will be convenient to

indicate the manifest general fact that Rome for nearly five hundred years never underwent a crisis such as would have entailed upon her an entire change of *régime*. From the time of the last Roman king to the times of Cicero there was no event necessitating the desperate measure of a *tabula rasa*. In Greek, as well as in modern States, wholesale alterations of the constitution are not infrequent. In Rome for a very long period they were unknown. In the same way Rome had, for five centuries at any rate, never to endure the abnormal influence of one of those extraordinary geniuses that in Greece, Carthage, or in more modern times, often precipitated their country into enterprises producing a precocious and unwholesome growth of ambition. Rome had, before Caesar, no Hannibals, no Pyrrhuses, no Pericles, no Alexanders the Great. This circumstance also indicates the deep-laid steadiness of Rome.

But where the inner unity of Rome shows most is in the amazing parallelism between early Roman life, public and private. We possess, it is true, no direct evidence of that life other than political and legal documents; and it is here not intended to disguise the well-known discrepancy between legal forms and the realities they refer to.[1] On the other hand it must be admitted, that in a State where that discrepancy was, owing to the poor development of Society, very much less crying than with us, a judicious study of the law is less likely to mislead us about the realities of life. The remains of the Twelve Tables enable us to arrive at a very full conception of the essence of a Roman in the fifth century B.C.

[1] See a very instructive discussion in Ihering's *Geist des röm. Rechts*, ii. (1880) pp. 139 *seq.*

The average Roman free citizen was quite different from the modern nobleman, *bourgeois*, or peasant. In Roman law terms he was, when quite independent, a *homo sui juris*. Historically speaking, the essence of this term is this, that a Roman *homo sui juris* is master absolute of every person or chattel in legal contact with him. His wife, as a rule, is legally his daughter; his son is legally almost his slave, and not for the period of the son's minority only; of both he is the moral judge; his debtor is, on non-payment, his slave and chattel; and in all his legal dealing he contracts not bilaterally, but unilaterally.[1] If called upon to be a judge, he sits alone and decides the case finally. His children are married and divorced by him, the house-gods are propitiated by him, for he is the priest as well as the master of the house. In one word, he has the full *imperium* of power, only the Romans called it in his case *patria potestas*. This *potestas* did not depend on his being a patrician or a plebeian, it was not a matter of age, seniority, rank, or wealth; it was quite and exclusively a matter of his personality. His will was law for each member of his family and his slaves; and in his dealings with people other than his own family, he only entered into relations of the most rigorous legality. He exacted everything from his debtor, or eventually lost his entire personality to his creditor.

Early Rome thus consisted of a restricted number of *patresfamilias*, who stood to one another in the most forbidding and uncompromising attitude of men between whom there is exceedingly little sentiment lost, and who viewed one another with suspicion from

[1] *Id. ib.* iii. (1883) p. 549 and iv. (1877) § 53 *in toto.*

the ramparts of the inhospitable fortress into which the law of the State had transformed the personality of each of them.

That rigorous conception of the *homo sui juris* as the only incumbent, as it were, of the *jus civile*, was never abandoned by the Romans, but at an early date it became manifest to them, that such a conception was insufficient for the needs of practical law. When Rome, from being one not very populous town, became a State counting very many thousands of Italic burghers amongst her citizens; when she had granted to the new citizens participation in her private law (or, as the Romans put it, when the new citizens were given *commercium*, *connubium*, *et recuperatio*), then it became daily more and more evident that the overstrained concept of a *homo sui juris* had to be modified or supplemented by concepts more adaptable to the ever-changing exigencies of real life. What was needed was not only a law for such exceptional legal individualities as a Roman *homo sui juris* who lived in an all-absorbing State, but also a law for any *homo*, for a *homo naturalis*, who was neither an *officialised* citizen nor totally divested of the ties, sentiments, aims, and habits of social relations. This law, as we shall see, was forthcoming through the edicts of the Praetor, aided by his counsel, the *jurisprudentes*, and the chief objects of this *jus naturale et gentium*, as the Romans called it, was to formulate juristically the ordinary business relations between man and man without any regard to political, religious, or criminalistic considerations. Or to put it even more briefly, the *jus naturale et gentium* was the natural adversary of the *jus civile*. It was law *unofficialised*, law

natural. It had to *jus civile* the relations of *factum* to *jus*, the latter (*jus*) being modified and controlled by it.[1]

In the fourth, certainly in the third century B.C., therefore, we find that the *homo sui juris* was no longer the only occupant of the plane of civil life. Together with him, more frequently arrayed against him, stood the *homo naturalis*, represented by his son, his wife, his slave, the *peregrinus* or stranger, the ally, the client, etc. They all claimed and obtained legal protection. They all came to have a personality in law. The *homo sui juris* remained, because in him was consummated the chief tendency of the State. The Roman State could not exist without its first line of defence represented by *homines sui juris*. But the very excessiveness of their character necessitated a reaction, and the *homo naturalis* was created.

In this great process, too, we note that in Rome the abstract State preceded the growth of concrete nature. First was the *homo sui juris*, and then the *homo naturalis*.

Having thus in thin outline sketched the essential stages and features of the law of the Roman citizen, we hasten to add that the essential stages and features of the law of the Roman State are of the very same kind and character. The unity and continuity of ancient Rome shows nowhere more

[1] The terms *factum*, *res facti*, are rigorously technical in Roman law. Thus the verbs *dare*, *dare facere*, are *res juris*, while the verb *reddere* is *res facti*. A *pactum* or an *ususfructus* was *res facti*, while *contractus* or *usus* was not, etc. It is impossible to give short and adequate English, French, or German equivalents for *res juris* and *res facti*. These terms find their nearest modern expressions in the terminology of modern Continental criminal law, of which later on.

splendidly and instructively than in this, the principal parallelism between her institutions. Precisely in the way in which the type of the *homo sui juris* was supplemented and corrected by the type of the *homo naturalis*, so the Roman magistrate, himself endowed with *imperium*, or an all commanding legal personality, was supplemented and corrected by the Tribunate. For, as we shall see presently, the Tribunate stood to the *magistratus* proper as does *factum* to *jus*, or as does the *homo naturalis* to the *homo sui juris*. And just as in non-State life associations were of little importance, even so in public life the centre of gravity was placed, not in the assemblies (*comitia*), but in the individual magistrate.

Before pushing the analysis of Roman institutions further still, we may well pause here for a moment so as to imbue ourselves with a full sense of the admirable unity of design and continuity of purpose pervading all Roman history. The Romans themselves, as is well known, have left us no valuable treatises on their constitutional law, such as they have in abundance bequeathed to us with regard to their private law. We shall soon learn the historical cause of that apparently strange deficiency. The moderns, on the other hand, have never ceased to study the history and organisation of Roman constitutional law with a zeal and an interest which they are very far from devoting to the study of the growth of their own constitutions. The simple reason of that never-flagging and supreme interest in the principles and details of the Roman constitution is the incomparable instructiveness of that constitution. Although our modern constitutions are, in form and distribution of power, quite different from the *magistratus*, *senatus*,

and *comitia* of the Romans, the amount of constitutional and political thought embodied in the organism of the Eternal City is as great, as instructive, and as important as is the fund of artistic thought pervading and vivifying the great works of art left by the Greeks. Such valuable thought could have arisen only in a people constantly on the *qui vive*, constantly exposed to dangers so immediate and so threatening that nothing short of the most efficient, hence most thoughtful, organisation could have saved them from utter ruin. If we compare the number of wars which Rome waged in her early days with neighbouring peoples, and of which we have ample, if in details not quite satisfactory reports, with similar wars of the Athenians or Thebans, we are compelled to admit that Rome was by far the more exposed of the two sets of city-states. It is said that the temple of *Janus* in Rome, closed in times of peace only, was, with two short exceptions, open for over seven hundred years. Nothing is more likely to be true. The deep thoughtfulness and powerful efficiency of the Roman constitution alone betoken a state of constant warfare and constant danger. It is only amidst and in consequence of unremitting jeopardy that men are moved to intense thinking over the root-principles of their existence as a State, and so, after many anxiously tried experiments, arrive at the true guiding principles of an abiding body politic. Of that intense and laborious popular thinking about political institutions, of such experiments made in the interest of a more efficient organisation of the State, we have in modern times very many examples. The Dutch between 1572 and 1600, the English between 1642 and 1653, the

French between 1789 and 1830, have tried, in countless parliamentary debates and in innumerable pamphlets and bills, to recast their constitution. All the three nations were then in very critical situations; and in all the three nations, according to the degree of danger to which they were permanently or temporarily exposed, a new and more explicit constitution was forthcoming. The French, being the most endangered of the three both in point of space and in length of time, elaborated the logically most consistent and most systematic of the three constitutions. It can thus be advanced with perfect safety that the more a nation is threatened with imminent destruction, the more the constitution of that nation will partake of the systematic force of thought.

Rome, then, living practically in constant warfare, was necessarily obliged to elaborate its constitution, both public and private, with a uniformity incomparably greater than mere slow custom could have ever made it. The unity of Rome here discussed was, as will be seen, the unity of thought. The great and pressing jeopardy unremittingly threatening Rome compelled her to increase inordinately the stake risked by each citizen, and so, by placing a very great premium on citizenship, to make the individual Roman both a most resolute soldier and a person of sturdy and imposing moral authority, in short a *homo sui juris*. Likewise, for the same reason, Rome was compelled to produce, in public life, the same tendency of vesting power, not in assemblies, but in a few imposing magistracies. The Roman home meant, as we have seen, the *homo sui juris*. It was centred in one commanding personality. The

Roman State likewise centred in a few all-powerful magistracies. The priority of the State in Rome, repeatedly insisted upon in the preceding pages, will now be seen to be theoretical and not chronological. State and home in Rome were the two faces of the same coin, the subjects and predicates of the same thought.

III

In the preceding two chapters we have dwelt—(1) on the improbabilities implied in the well-authenticated institutions of early Rome; and (2), on the peculiar unity and continuity of Rome's private and public constitution, both brought into existence by one and the same thought, and quickened by Rome's continuous jeopardy.

These two fundamental statements, we take it, must necessarily be premised before we can proceed to fix our standpoint in interpreting and criticising the sources of early Roman history. Mere philological and chronological criticism of these sources can avail us but little. The incredible contradictions of the modern historians of Rome; their divergencies on nearly every one of the questions raised; the arbitrariness of their assertions are, as a matter of fact, far more glaring than those of Livy, Dionysius of Halicarnassus, Cicero, Diodorus Siculus, and Polybius. They fully merit the gibe of J. L. Klein, who pointed out, with just sarcasm, that as Romulus killed Remus, so Professor Niebuhr killed Romulus, only to be himself killed in turn by some other professor. It is, one may intimate, not by a succession of such posthumous murders that we shall gain a real insight into the inner web of Roman history.

The two statements which we have ventured to call fundamental are based on the most direct and least doubted of Roman sources, on the extant fragments of the Twelve Tables, of the middle of the fifth century B.C., and on the well-ascertained character of the Roman magistracy.[1] That a Roman, a free and independent citizen (a *homo sui juris*), was the absolute master of his home, family, chattels, and insolvent debtors, and that this *potestas* of his was controlled, checked, and modified by ample concessions made to individuals who had no such full-fledged legal personality; that is one of the few absolutely certain, broad facts of early Roman history. Likewise, that each greater Roman magistrate was given what to us appears an extraordinary amount of irresponsible power; that in the magistracies was vested the greatest power of the State; and that any one of even the highest magistracies could be checkmated and foiled, nay, thrown into prison, by the irresponsible and *sacrosanct*, or inviolable tribunes; that is equally certain and beyond any cavil or doubt. Finally, that the two institutions of the family *potestas* of the *homo sui juris*, on the one hand, and the *imperium* of the higher magistrates on the other, were representing a close parallelism, not to say identity of political design; that statement is

[1] The date and authenticity of the Twelve Tables have, as may be expected, not entirely escaped the doubts of hypercritical philologians. In addition to Pais (*Storia di Roma* (1898), i. p. 550, ii. pp. 546, 631, who, of course, absolutely denies that the *Tabulae* were published before the end of the fourth century B.C., M. Edouard Lambert (in the *Nouv. Revue de droit français et étranger* for 1901) gives as their date the beginning of the second century B.C. The method of that *escamotage* is always the same: inquisitorial insinuations; the result is also the same: *nil*. See some sensible linguistic remarks on the archaic character of the language of the Twelve Tables by Michel Bréal in *Journal des Savants*, 1902, pp. 599-608.

a mere matter of logical inference from the preceding two facts.

In these two fundamental principles, then, we have a safe means of deciding whether to grant or to refuse credibility to the broader statements of our sources of early Roman history. Any statement that clashes with the spirit of those fundamental principles we shall and must discard as unhistorical, and *vice versa*. Anything in harmony with those principles we may very well accept as historical, or as historically not unlikely.

In the first place: Are the seven Roman kings mere myths, or are they historical?

Since the time of the great geographer Cluver, in the seventeenth century, the historic existence of the first two Roman kings, Romulus and Numa, has been absolutely denied by a constantly increasing number of scholars; and while the existence of the remaining five kings is not always altogether negatived, their history as given in the sources is declared to be full of hopeless contradictions.

The non-existence and mythical character of Romulus and Numa have been so persistently and elaborately announced and advertised, that it takes no ordinary courage to confess a belief in the historical existence of the traditional founders of Rome and of her religion. The unwarned student who reads, for instance, Schwegler's exceedingly minute and destructive discussion of this question will most likely feel overpowered. He will think, that if even Caesar succumbed to twenty-three incisions made by the daggers of a few conspirators, Romulus or Numa cannot reasonably be expected to survive the onslaught of hundreds of sharp-edged quotations which,

Schwegler says, all conspire to spill the blood of the son of Rhea Sylvia, and of the husband of Egeria. At present, however, when nearly a century has lapsed after this, the last of the *Roemerzüge* of the Germans, we may again take heart and inquire afresh. Perhaps on applying to the argumentations of the German philologers and philological historians, the same criteria of validity that they applied to the writings of Livy and the other Roman and Greek writers, we shall find that Romulus or Numa benefit by the homely truth that *inter duos litigantes tertius gaudet*, or, that both kings survive owing to the mutual inter-assassination of their modern aggressors.

As already pointed out when treating of Moses and Lycurgus, the historical scholars whose training is chiefly philological are, by dint of philological habits of thought, averse to personalities. No philologist would indeed deny that Latin classical prose was practically created by Cicero; at any rate, that without Cicero we should hardly have perfect Latin prose. But it is equally certain that Cicero invented neither the *ablativus absolutus* nor the *accusativus cum infinitivo*, nor any other syntactic institution of the Latin language. We may, therefore, state with greater precision that philologists, possessing competent knowledge of one kind of institutions only, that is, of linguistic ones, have a natural and quite comprehensible antipathy to crediting single personalities with the establishment of institutions political or religious. It is this latent but ever-present antipathy that fills the philological historian with an instinctive and thus unconquerable suspiciousness whenever, in ancient history, he reads of one single person being credited with the intro-

duction of entire institutions of law or belief. Once we read or hear a person's report with a suspiciousness so deep-seated, we are unable to do that person any real justice. It is a common experience of all Continental law courts, that a judge, rather than accept the depositions of witnesses whom he absolutely distrusts, but who may, in a concrete case, be quite truthful, will indulge in over-subtle imputations and counter-arguments, which ordinarily he himself would reject as far too laboured. The truth is, his *amour-propre* and professional vanity are roused. He has committed himself. He must prove that the witnesses so antipathetic to him are telling untruths. In the case of the philologists readily denying the existence of Moses, Lycurgus, Theseus, Romulus, Numa, and other personalities of primitive times, there is an additional circumstance apparently encouraging and supporting them in their view. In modern times we have no longer personalities such as Moses, Lycurgus, or Romulus. How can the ancients have had them? Precisely. And when we finally consider that by making all these personalities into so many myths, their lives fall bodily outside the strictly limited and concrete conditions of historical treatment, and henceforth, as myths in mid-air, become the legitimate prey of philological treatment, it is quite evident that no conscientious philologist can afford to miss such a favourable opportunity of increasing the estate and domain of his profession.

When, however, after some years of slow recovery from the shock sustained by Niebuhro-Schweglerite arguments, we return to the study of Roman history with greater calm and better knowledge of the true

spirit of antiquity, we easily find that the principal argument of that school of historians consists in their assumption that political and religious institutions are always a matter of slow growth; or, as Schwegler puts it, speaking of the alleged establishment of the Roman religion by King Numa: "The blending of the same (of the cults of the original settlers on the Palatine and the Quirinal) into the Roman religion was the work of slow and gradual mediation and equalisation." [1]

"Slow growth" is essentially antagonistic to establishment by individual persons. It is the way in which the *ablativus absolutus* is supposed to have arisen.

All the other arguments of the school of Niebuhr derive their real strength from that one gratuitous assumption of "slow growth," or, as we now say, from "evolution."

In order to put the case of *Romulus* v. *Schwegler* in its true light, we shall disregard for a moment all general theories of evolution, slow growth, or personality, and attempt to answer the following question: Supposing a subtle Greek, sustaining in a discussion the mythical character of Romulus and Numa, advances to a Roman gentleman of the third century B.C. all the arguments of the modern critical school of history. The Greek tries to impress the Roman with the futility of the idea, that Romulus should have introduced the main institutions of the Roman polity, and Numa those of the Roman religion. What would the Roman have said in reply?

[1] "*Die Verschmelzung derselben zur römischen Religion war ein Werk allmähliger Vermittlung und Ausgleichung*" (Schwegler, *Röm. Gesch.* i. (1853) p. 555)

There can be but little doubt that his principal counter-argument would have been as follows:—

"You wonder that I do not scruple to attribute the establishment of some of the vital organs of my State to the insight and will of one personality living five hundred years before my time. Why should I scruple? The very thing that I credit Romulus with, I have myself, as a praetor, as a censor, or when one of the consuls, practised many a time. I have repeatedly and single-handed, without heeding the Assembly or the Senate, introduced *nova* into the constitutional law and practice of my State. I have never hesitated, when a praetor, to create new law; and in several cases my legal *nova* have profoundly altered the financial or political position of entire strata of Roman citizens. When censor, I introduced sometimes subtle, sometimes very broad reforms into the moral and financial structure of Rome; and my friend Icilius, during his tenure as tribune, so incisively checked the power of the Senate in concrete cases that he may, in a sense, be called the *pater patrum conscriptorum*. Now, having practised and experienced this all my life; having experienced that no other power in my State was as great as that with which we entrust single personalities; why should I hesitate to assume that a king, that is, that a personality commanding even more authority than is wielded by either myself or any of my friends, should have been readily trusted with the introduction of *nova* more comprehensive still?

"I notice, my subtle friend, that you do not hesitate to accept as historical the creation of the Tribunate in the 259th year of the city (494 B.C.). I wonder you do so. For, on the strength of your

own principles of criticism, you ought to recoil from accepting the futile idea, that an institution so immense, so all-embracing, so unique, as is our Tribunate, and as it manifested itself to be almost incontinently after its creation, should have been created by one single dictator, or by a chatty old gentleman, whichever version you please. Surely, if ever your arguments held good, they ought to be applied in the case of the creation of the Tribunate too. And then, how can you afford to admit that the *Censura* and the *Praetura* were born full-fledged, by one stroke, at the proposal of two consuls, and not by a process of long, slow growth? I fail to see it. You must either deny Minerva altogether, or admit that every single part of her divine body sprang full-armoured out of the forehead of Jupiter."

It is indeed evident, that he who denies Romulus or Numa, must consistently proceed to deny the history of the rise of all the magistracies of Rome, as related in our sources. To accept, on the one hand, the fact that the Tribunate was created in the course of a few days, and to refuse to accept, on the other, the foundation of Rome and her polity at the hands of Romulus, is the possibly greatest abuse of scientific methods of research. The Tribunate was, almost at once,[1] the most powerful magistracy in Rome. So great, so vast were the powers of the tribunes, that they were able to undo anything ordered or established by any power in the State. Strictly speaking, they could undo the whole *res publica*; as eventually in the first century B.C. they did do. The problem, therefore, is reduced to this: Is it unmethodic to assume that in a State, in which

[1] See Schwegler himself, *Röm. Gesch.* ii. pp. 263 *sq.*

one annual magistracy is given the incontestable power of undoing the State, another magistracy may be credited with having founded the State? In other words: Is it not permissible to infer that a State in which personality is the supreme power was also brought into existence by a personality? May not the adversary of the German analytic and philological school quote the famous passage from Sallust, so often misquoted by that school, with considerably greater right? "*Imperium*," Sallust says, "*facile his artibus retinetur, quibus initio partum est.*" All Rome is grafted on the official power of a few magistracies, who in virtue of that great power become historic personalities. And shall this assumption that, at the head of this long series of State-making personalities there was the personality of the founder, be wanting in psychological conclusiveness?

It is easy to represent to oneself the reasons why German scholars may fail to see the force of the preceding arguments. The historic life of their nation is based on forces so utterly alien to the true factors of Roman history, that they are deprived of any practical means of understanding the latter. To the German, and largely also to the French mind, government without a considerable number of permanent bureaucratic officials (*fonctionnaires, Beamte*) seems impossible. Yet the Romans, during the Republic, had not a trace of German or French officialdom. They had, in fact, the very reverse. They conquered the world with a system of annual offices, the incumbents of which were given immense initiative and power. All that is practically incomprehensible to a German, Austrian, or Frenchman. It

is, however, rather amazing that the English have so readily followed German theories about the Roman constitution. For, in the English polity there are, and in the most explicit way too, some of the very factors at work that made Rome; and chief of all, the factor here discussed—personality. By a consideration of the manner in which the English have entrusted an exceedingly small number of magistracies with the making, not indeed, as did the Romans, of all, yet of some of the organs of the State, we shall finally arrive at the salient point of all Roman history, and impart to the term "personality" a more technical and sharply-defined historical meaning.

Private law in England developed on lines quite different from those of Continental law. It has, since the times of the Plantagenets, always been judge-made law. The dispensers of law in the courts were applying not only a law handed over to them by popular custom or special statutes. They created law. It may be stated broadly, that the Justices in the king's courts of law, previous to the Tudors, were at once the administrators and legislators of English common law. This broad fact explains satisfactorily why Roman law was never "received" in England as it was on the Continent. The reception of Roman law would have at once rendered superfluous the great powers of legislation vested in the common law judges in England. To consent to that reception would have been, on their part, tantamount to a voluntary abdication from power. It is unnecessary to prove why such abdications will never be voluntarily resorted to.

On the other hand, the vast power vested in

the common law judges was, like all irresponsible powers, too frequently abused by the Justices not to render some control of them a matter of imperative necessity. Already when Cardinal Wolsey was Chancellor in the times of Henry VIII., applications by litigants imploring his help against the Justices of common law were increasing so rapidly "that he erected no less than four Commission Courts to sit for him, one of which, that of the Master of the Rolls, has continued ever since as an assistant."[1] The Chancellors under the Tudors rapidly widened and strengthened their powers as judges controlling the justices of common law; and Lord Ellesmere, under James I., "plainly claimed power to determine new cases on new principles, even against the law, and to legislate on individual rights."[2] The friction and constant tension between the Chancellor and common law justices was clearly manifested by the well-known case of resolute antagonism between Lord Coke and Lord Ellesmere in 1616. "The judges, led by Coke, the Chief Justice, made a determined attempt to put an end to the Chancellor's interference."[3] In that they failed, as fail they must. The excessive power vested in them could not but necessitate control by a counter-power of the same nature. Theirs being purely personal, it was imperative to check them by allowing another magistracy identical counter-powers of purely personal character. Had the history of the powers of the English Chancellors been made a subject of deeper investigation,

[1] Kerly, D. M., *Historical Sketch of the Equitable Jurisdiction* (1890), p. 96.

[2] White and Tudor, *Leading Cases*, ii. p. 644 (1886), quoted by Kerly, *ib.* p. 100.

[3] Kerly, *l.c.* p. 113.

the antagonism and conflicts between them and the common law judges might be amply illustrated by cases long before Wolsey. At any rate, it is incontestable that the rise of Equity in England is neither an abnormal phenomenon, nor one that any cleverness or legislative measure could have obviated. It was the inevitable result of the specific character and functions of the common law judges. For, in consequence of motives that have never been made a serious historical study of, the English have, at a very early date in their history, chosen for the administration of private law, the Roman system of leaving law entirely in the hands of very few great magistracies, both for dispensing and for creating it. To the present day England has not one-twentieth of the number of salaried professional judges in France or Germany.[1]

Here then we have under our own direct observation a living case strictly analogous to what was going on in ancient Rome with regard to all the organs and departments of the State. Wherever legislative powers are vested in single magistracies, and not in deliberative assemblies, nor controlled by a comprehensive code limiting and prescribing everything, there the over-powerful personality of one magistracy must needs be checked and held in balance by that of another magistracy of the same personal character. The Roman Tribunate, therefore, is *toto coelo* different from that "abnormal," "inorganic" institution, or that "vicarious measure established by way of a foolhardy experiment," which Schwegler, L. Lange, and Mommsen respectively

[1] Macdonell, Sir John, in *Journal of Comparative Legislation* for September 1902, where valuable and authoritative comparative statistics are given.

have made it out to be.[1] It is, on the contrary, the most normal, most natural, most indispensable outcome of the Roman constitution. One may, and from modern points of view quite correctly, pronounce the Roman Consulate or the *Censura* to be an abnormal, contradictory, and absurd institution. Once, however, one accepts without any serious objection the great direct magistracies of Rome, one cannot but declare their indirect complement, *i.e.* the Tribunate, to have been the most natural institution in ancient Rome. This is incontrovertible even from the most rapid consideration of the history of the Tribunate. Originally founded, it is said, for the protection of plebeians only, it ought, one might expect, to have disappeared after 337 B.C., when plebeians shared all the great magistracies of the State, and when one of the consuls was by law always a plebeian. Evidently tribunes ought then to have become obsolete. Quite on the contrary, tribunes were after 337 B.C. the most powerful magistracy in Rome. But when, instead of viewing the Tribunate in the light of the above-named scholars, we view it as what it really was, that is, as the most natural complement and corrective of the direct Roman *magistratus*, it becomes at once evident that it could no more have disappeared from the Roman constitution after 337 B.C. than it could have been long missed a hundred years before that date; or, in other words, that it could no more become obsolete, in the Roman system of public law, than could, in

[1] Schwegler, *Röm. Gesch.* ii. p. 268; L. Lange, *Röm. Alterthümer* (1863), p. 709; Mommsen, *Röm. Gesch.* (1888), i. p. 276. Bouché-Leclercq, *Manuel des Institutions Romaines* (1886), p. 71, faithfully repeats the German verdict: "*Le tribunat, révolutionnaire de par son origine, était resté jusqu'au bout le ferment malsain et comme un corps étranger dans la constitution.*"

the system of Roman private law, any praetorian corrective of the *jus civile*, such as the *actio in factum concepta*, the *pactum*, or any *interdictum*; in fact, it could no more lose its *raison d'être* than could the English chancellors, as long as the English common law, as such, irrespective of any possible reforms, was vested in the personality of the common law judges.

As a final and clinching proof of the complete relevancy of the view of the Roman Tribunate here advanced, one has only to study the constitutional functions of the *praetores*. In their sphere they did precisely what the tribunes did in theirs. They were, as legislative judges, the constant corrective of the legislative power of the *comitia* or of the old *jus civile*. They did not perform that function in the dramatic fashion of the *veto* of a tribune. But every student of the history of Roman law knows, that by the system of *actiones* and *interdicta* which they introduced solely on their own authority, as well as by the creation of new substantive law, they constantly vetoed and shelved the rigid and unsatisfactory or inopportune law of the statutes or *leges*, and of the *jus civile* generally. The tribunes did no more. Considering that the doubling of the number of the consuls or censors did not secure that mutual control of the incumbents for the sake of which it had been introduced, it was necessary to have a general magistracy as the absolute corrective of any other magistracy. The tribunes thus intervened in any State act, as the praetor intervened in any State law.

Mommsen's scathing remarks about the Tribunate are on a line with John Selden's gibe at Equity.

The great scholar-patriot said, as reported in his inestimable *Table-Talk* (*s.v.* "Equity"): "Equity is a roguish thing, for Law we have a measure, know what to trust to, Equity is according to Conscience of him that is Chancellor, and as that is larger or narrower, so is Equity. 'Tis all one as if they should make the Standard for the measure, we call a Chancellor's Foot, what an uncertain measure that would be? One Chancellor has a long Foot, another a short Foot, a third an indifferent Foot. 'Tis the same thing in the Chancellor's Conscience." Neither Mommsen nor Selden saw the real drift and cause of the magistracy they fell foul of. It may be, however, that Selden was not quite serious.

IV

In the preceding chapters we have tried to determine and describe the real character of Roman magistracies. The Roman constitution, it will be seen, is essentially cephalic. If contemplated from the standpoint of the current divisions of the Science of Politics, it is almost impossible to reach this, its principal psychological force. But if we leave scholastic divisions aside; if we attempt to see the working principles of that constitution; we cannot but notice that its main driving force was the idea of letting the business of government be done by a few men endowed with extraordinary powers, and not by mere officials or *fonctionnaires* (*Beamte*). While, therefore, other classical States, such as those of the Hebrews and of the Hellenes, consisted, as a rule, of polities in which the cephalic character manifested itself at the outset of their history, rather than during

the course of it; the Roman constitution was that of a polity which was cephalic at the outset, during its historic course, and at its termination. This cephalic character of the Roman constitution may be expressed as being a system fostering chiefly the power of personality. And since even the foremost among the Romans, before Caesar, can certainly not be credited with anything like that striking personality which we admire in Themistocles or Pericles; or, in other words, since the Republican Romans cannot be said to be great subjective personalities; we are bound to call them, if with a clumsy term, objective personalities. Between them and the great men of the Greeks there is this marked difference, that while the power of personality in a great Greek came from his own personal charm and force, the power of a great Roman came, almost without exception, from the powers vested in him in virtue of his office. The Greeks, therefore, and more especially the Hellenic States formed after the model of Athens, depended on what one cannot but call chance for the rise of their great men. The Romans, on the other hand, reduced the element of chance very considerably by making great men through the official endowment with powers so great as, outside Sparta and a few other Hellenic States, the Greeks would not dream of vesting in any single person. Plutarch, in trying to draw parallels between Greek and Roman leaders of men, is likely to mislead our judgment about both, as much as to give us material to correct our error. In the lives of the great Greeks there is, owing to the greater share of chance, more of the effectiveness of a drama than in those of the great Romans. In Hellenic history we admire the incumbent much more than the office;

in Roman history the office is, as a rule, much more worthy of our attention than the incumbent. The feat of Mommsen regarding Roman constitutional law is almost unfeasible with regard to Greek constitutions. We shall always be more anxious to learn something about Pericles than about the Athenian *strategi*. Greek history, with the exception of that of Sparta, is, speaking generally, cephalic subjectively; Roman history is cephalic objectively. It was, therefore, quite in consonance with the true spirit of the Roman constitution that Mommsen commenced his *Roemisches Staatsrecht* ("Roman Constitutional Law") with an elaborate study of the Roman *Magistratus* in general, and the Roman magistracies in particular. The objections raised against this distribution of the work are only proofs of a misunderstanding of Roman institutions. Mommsen, like Cujacius, did not penetrate to the psychological root of Roman institutions; but both had, from constant and intimate acquaintance with the details of Roman life, public and legal, an almost infallible tact in allotting to each organ of that unique body-politic its due place.

If, now, we proceed to study the true character of the *Roman Assemblies*, we are prepared to expect them to be subordinate to the Roman magistracies. It is an undoubted fact of the broadest practical experience, that each individual person, as well as each association or corporation of men, is dominated chiefly by what they feel to be their principal or fundamental desire. An Assembly of the people A differs from that of the people B, not so much in form and external system, as in point of the main intent that A or B want to realise by meeting in Assemblies.

People do not meet in Assemblies for academic or theoretic reasons. They are prompted by practical and urgent reasons, most of which may be reduced to one dominating desire. Some Assemblies meet with the desire to constitute *the* governing body of the polity; other Assemblies do not. Some Assemblies are especially anxious to legislate on civil matters; others are indifferent to that. Some Assemblies are particularly anxious to regulate all questions of religion; others are not. In order, therefore, to understand the psychology of an Assembly, we must, first of all, find out what its members are chiefly after. What do they really mean by meeting and debating at much expense of time, money, leisure, and comfort?

If we consider the surpassing importance of Roman magistrates, we cannot be astounded to find that the Roman Assemblies, in which the incumbents of the magistracy were elected, were principally meant to satisfy the strongest desire of the ambitious and capable among Roman citizens, that is, the desire of being one of the magistrates. To this desire everything else was, as a rule, subordinate. The Roman Assemblies, then, were of the type of assemblies which we may call engines for the distribution of offices. Since all the real forces of the Roman polity were personal and cephalic, the ambition of most Roman citizens was naturally directed into the channels of "office-hunting," and for that purpose the Assemblies were the constitutional engine. If, then, we want to comprehend the psychological play of the driving forces in the Roman Assemblies, we must, in addition to a careful collocation and study of the texts of our sources, such as Livy, Dionysius of

Halicarnassus, Cicero, Polybius, and others, attempt to obtain some object-lessons from a modern Assembly in which the chief driving force is likewise that of the distribution of offices. If we neglect the invaluable teachings of such an object-lesson—that is to say, if we fail to secure a living knowledge of the working of such an Assembly—we shall never be able to do justice either to the ancient texts or to the Roman Assemblies. Mere arm-chair study of texts and inscriptions, however erudite and subtle, will never lead to a true comprehension of the curious nature of the Roman Assemblies.[1] We have seen that the study of the Roman magistrates receives an unexpected light from a consideration of the English Bench, which in some essential points is identical in spirit with the Roman *magistratus*. In the case of the Roman Assemblies, new and full light may be obtained from a study of that modern Assembly which, in various respects, is essentially identical with the Roman *Comitia*; we mean the American Congress. In the United States a new President means, as a rule, a new Administration, *i.e.* over 8000 offices, at home and abroad, to be filled with new incumbents. From the President to the letter-carrier or postman,[2] every single office will be filled with a new man. For him who has personally watched the Congress of the United States for some time, it is a matter of pity to see European scholars pour over the stodgy columns of the *Congressional Record*, in order to gain some

[1] It is needless to show that Schwegler, H. Peter, L. Lange, and other arm-chair students of Roman constitutional history are, *eo ipso*, incapacitated to read aright the Letters of Cicero, or his orations *pro Sestio*, *pro Milone*, *pro Plancio*, and other political works of the great orator-statesman. Even the fundamental distinction between the *Concilia Plebis* and the *Comitia Tributa* escaped the philological historians previous to Rubino's *Untersuchungen* (1839).

[2] Until recently.

knowledge about the machinery of American Parliamentary life. He knows that the *Record* is quite unfit to give its readers a true conception of the psychology of Congress. One may have read the *Record* for years without in the least surmising the nature of the real driving forces of Congress. Fortunately, for the purposes of learned quotation and the avoidance of egotism, an American scholar of real merit, Mr. Woodrow Wilson, may be referred to as one's "source." Mr. Wilson has long published his weighty though small book on Congressional Government, in which he has given clear expression to facts not unknown indeed to close observers of Congress, but certainly unfamiliar to book students of the American constitution.

Congress, and in the first place the Lower House, the House of Representatives, shows a most striking similarity with some of the essential features of Roman Assemblies. To begin with, it is *qua* House, a non-debating and merely voting Assembly. The individual member cannot hope to make his voice heard by the House for any considerable length of time; not physically, because the hall is too vast; not morally, because the Speaker will not allow him to do so. Debates before the House are, therefore, practically non-existent. All this, as every one knows, was also a feature of the Roman Assemblies. While, moreover, nearly all American citizens are belonging either to one or to the other of the great national parties; and although the organisation and discipline of these parties are, outside the House of Representatives, of the strictest and most thorough-going character in all municipal, State, educational, and even social matters; yet within the House voting is

done quite independently of party lines.[1] The same characteristic feature is to be found in the Roman Assemblies, outside the *Concilia Plebis* at any rate. Thus, had voting in the *Comitia* proceeded on party lines, the Plebeians might have won complete constitutional equality with the Patricians long before the *lex Ogulnia* (300 B.C.). It is certainly more than likely that the Plebeians might have managed to have a majority in one of the very numerous *Comitia Centuriata* or *Comitia Tributa* previous to 300 B.C. By such a majority they could have easily passed a law giving them the Consulate and the *Censura* long before say 400 B.C. However, voting in the *Comitia* did not proceed on party lines. And what could it have availed any Roman had it so proceeded? The elected magistrates were bound to remain in office for their legal period. No change of officials, such as occurs in England or France when the Opposition is victorious, could have taken place in ancient Rome or can take place in the States. Therefore, both in Rome and in the States, party organisation is indeed one of the most accurately working and highly technical political machineries, but its apparatus works outside, and not inside, the Assembly. In America the terms *Caucus*, *Convention*, although applying to legally non-existing constitutional forces, are equivalent in form and power to the Roman term *Contio*, which was, the Roman jurists would say, a *res facti*, a legally non-existent institute of Roman *Comitia*, but which was nevertheless a most powerful machinery for the preparation of the real work inside the *Comitia*. No one ignores the vast influence of the

[1] Woodrow Wilson, *Le Gouvernement Congressionnel* (French edition, 1900), p. 110.

Caucus, the frequency of their meetings, the iron discipline exacted and observed; nor does any one ignore the immense powers of the *Conventions* by which the decisive political plans and the greatest offices in the States are practically determined. It was essentially the same with the *Contiones* at Rome. In these *extra*-constitutional and non-formal meetings the most important plans and subjects and persons of the political campaign were proposed, discussed, and decided. All the sources refer, from the times of the Kings to the end of the Republic, constantly to the *Contiones*, where alone debating could take place.

In the House of Representatives, as every one is aware who is really conversant with the realities of Congress, the power of making or unmaking Bills lies not at all with the parties or any party organisation, nor with a *Cabinet* of some kind, but simply with the sixty odd Chairmen of the omnipotent and non-partisan Committees, where alone Bills are discussed, prepared, and formulated, so that the House as such is practically not allowed either to discuss or to amend the draft submitted to it by one or more Committees. The House can only accept it *en bloc*, or not accept it at all. As Senator Hoare used to say, the House of Representatives consists really of 48 (now over 60) "small legislatures," meaning the Committees.[1] And since the all-powerful Chairmen of these Committees are appointed by the Speaker, the latter wields a most extraordinary influence over the structure and functions of the House.

If we now reduce the preceding statements to their plainest expression, we find that the American House of Representatives is dominated, in the process of

[1] Wilson, *l.c.* p. 114.

constituting itself, by a few leading men of the Caucus and the Convention; and in the process of its normal work, by the Speaker and the Chairmen of the Committees. This was precisely the case with the Roman Assemblies. The Roman Caucus or the *Contiones* practically determined the subject and fate of the questions submitted to the *Comitia*; the latter were directly and helplessly dependent on the magistracies, who could, quite irresponsibly, prevent them by *obnuntiatio*, before the holding of the Assembly, the augurs being even allowed to stop the *Comitia* while it was being held.[1] For, in the United States as well as in Republican Rome, the Assemblies were nearly entirely subservient to the cephalic principle pervading the whole constitution of Rome. As in the States, there was in Rome no one national and autonomous Parliament in which the direct representatives of the nation really discussed and decided the great political issues, as they do in England. There were, *de facto*, and, at Rome, even in name, a series of Assemblies, but not one national Parliament. Had the Romans really meant to have anything like a national Parliament, their *Comitia Tributa* were quite ready and fit to serve as the requisite organ for it. The *Comitia Tributa* were essentially national, and not stratified according to classes; they were based on universal suffrage, without regard to wealth, and without the danger of being abused for the elusion of the rights of the less wealthy classes, as was the case with the *Comitia Centuriata*. Yet the *Comitia Tri-*

[1] In the thirty-second and thirty-third chapter of Cicero's second Philippic oration, there is an interesting discussion of that point, which troubled the commentators of the sixteenth and seventeenth centuries very much, but which is now perfectly clear. See the lucid remarks of Bouché-Leclercq, *Hist. de la Divination, etc.* (1879), vol. iv. pp. 249-261.

buta were never developed into a modern Parliament *à l'anglaise*; nor are the American Assemblies, although they were first framed by Englishmen, and largely after English models. In neither do we meet with "leaders" proper—that is, with statesmen who embody the ideas and strength of well-organised parties. In America as well as in Republican Rome there are in reality a series of Assemblies. In America they are—

(1 and 2) The Assemblies of the *Caucuses.*
(3 and 4) The Assemblies of the *Conventions.*
(5) The 60 odd Committees of the House of Representatives.
(6) The House of Representatives.
(7) The 40 odd Committees of the Senate.
(8) The Senate.[1]
(9) The President and his Secretaries.

In Rome, as we have seen before, there were—

(1) The *Contiones.*
(2) The *Comitia Calata.*
(3) The *Comitia Curiata.*
(4) The *Comitia Centuriata.*
(5) The *Comitia Tributa.*
(6) The *Comitia Sacerdotum.*
(7) The *Concilia Plebis.*
(8) The Senate.

The reader will not fail to remark the apparently strange resemblance between the fixed number of votes in the *Comitia Centuriata*, which, as we have seen, disposed, up to 241 B.C., only of 193 votes, and

[1] For it is superfluous to prove that the Senate in America, although much more inclined to debates and Parliamentary organisation proper, is yet essentially dispersed in Committees, as is the Lower House. Wilson, *l.c.* p. 231: "*Ses fonctions* (of the Senate) *sont, comme celle de la Chambre, noyées dans les privileges de nombreux Comités permanents.*"

afterwards, probably, of 373, quite irrespective of the possible millions of voters in the *centuriae*, on the one hand; and the relatively small number of real votes, *i.e.* Committees, in the American Congress, on the other. This strange resemblance is, however, what, on closer psychological scrutiny of both constitutions, one ought to expect. If an Assembly does not represent the dominant desire of a nation; if it is only an engine meant to work for an extra-Parliamentary object; then it will never be allowed to concentrate and focus the political powers of the nation in a simple and vigorous organisation. In order to weaken it, it will be split up into boards, committees, or other assemblies. In order to prevent clear organisation, the formalities and details of structure and procedure will be encumbered with endless and obscure *minutiae*. There is in every sense of the word a far cry between the Diet of the Holy Roman Empire, say, in the seventeenth century, and the American Congress. There is, nevertheless, more than one point of similarity between the two. In neither did the nation mean to vest its real powers, while it maintained in both cases the show of a great council. Naturally, the rules, etiquette, and procedure of the Germanic Diet, as well as of Congress, are quite inaccessible to the ordinary mortal. They are of the most bewildering complication, and no scholar has as yet succeeded in reducing it to intelligible simplicity. It was even so with the Republican *Comitia*. We can detect no criterion according to which the subjects of legislation were distributed between the *Comitia Centuriata*, the *Comitia Tributa*, and the *Concilia Plebis*. We never shall. The Romans themselves did not know it. Nor do the

Americans know to which Committee a certain Bill really belongs. The technique of the opening, conducting, and terminating of Roman Assemblies is still the *crux* of all the commentators of Cicero and Livy; and so it was, no doubt, in the times of Varro. It was never meant to be clear and comprehensible. It was meant to be hazy and indistinct. In the Roman constitution, if in any constitution, the motto was: Men, not measures. The point always was Who? and not How? The main interest was, Who shall be *consul, censor, praetor, aedilis, tribunus*, etc.? Hence the Romans did not care much about what had been done in the *Comitia*, except about what was the result of the election. Like the modern Americans, they did not care to read a *Congressional Record*; and accordingly there was none.

If, now, we carefully reflect on the true psychology of the Roman Assemblies, we shall be enabled to see, in their proper relations, various fundamental questions that have hitherto been left undecided, owing to the purely philological method applied to the texts of our sources. In the first place, we can doubt no longer that the *Concilia Plebis* were indeed an Assembly apart from the *Comitia Centuriata* and the *Comitia Tributa*. In the works of Rubino, Mommsen, and Herzog,[1] the distinctive and most important character of the *Concilia Plebis* has been insisted upon with great stress, yet numerous scholars continue to deny the *Concilia Plebis* an existence different from that of the *Comitia Tributa*. Howsoever and whatever the arguments of philological

[1] Rubino, *Untersuchungen über roemische Verfassung und Geschichte* (1839), p. 309; Mommsen, *Roemische Forschungen*, i. pp. 151-217; Herzog, *Geschichte und System der roemischen Staatsverfassung* (1884), vol. i.

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historians may or may not be, it is psychologically certain that the Tribunes could not possibly dispense with the advantages offered them in the sole conduct of the *Concilia Plebis*. This, however, will become much clearer, if we first ascertain the true relations of the various Assemblies in Rome to one another. It is usual to regard each of them as a kind of department (*ressort*) in the civil service of the Roman Republic. They are thus represented to be a sort of peaceful and mutually pleasing subdivisions or offices of several great State departments. As a matter of fact they were engines of strenuous fight between the various magistracies, or some of them and the Senate. The various magistracies had, in their relations with one another, not only the *major potestas*, or the right of civil or religious intervention; they had also—and this was frequently the more important power—the means of thwarting their rivals and of carrying their own points in virtue of their individual Assemblies. We saw in the preceding chapters that the Tribune, for instance, was as necessary and natural a complement to the Consul, Censor, or Praetor, as the second Consul was to the first. This constitutionally necessary function of the Tribune might have, however, easily been paralysed by any Consul, who, for that purpose, would have convened a *Comitia Centuriata* or *Tributa*. It was only thanks to the Tribunes' own Assembly, to the *Concilia Plebis*, that no Consul or Censor was in a position to render the Tribunician power ineffective. This explains also why not even a plebeian Consul was allowed to convene the *Concilia Plebis*. As the office of a Consul or Censor necessarily gave rise to the controlling office of the Tribune, and as the

Tribunes continued to be one of the greatest offices of the State, even after the time when one of the Consuls was always a plebeian; even so the *Comitia Centuriata* or *Tributa* were necessarily complemented and controlled by the *Concilia Plebis*. In exactly the same way and for the same reason the non-partisan Committees in the American Congress, and more particularly in the House of Representatives, are the inevitable complement of the partisan *Caucuses* and *Conventions* outside the Congress.

In that manner we are, at last, in a position to comprehend fully why the Tribunician power not only survived the equalisation of the orders (*lex Ogulnia*, p. 15), but continued to be one of the greatest powers in the Roman State. As long as the old magistracies had, in addition to their own vast power, the power of their Assemblies, it was and remained necessary to keep up not only the Tribunician office, but also Assemblies exclusively convened and conducted by the Tribunes. Neither of the magistracies desired, nor could he desire, to concentrate all the powers on One National Parliament; for in such a Parliament power very soon becomes vested in one "leader." The existence of various Assemblies, then, was quite in accordance with the burning desire of so many thousands of ambitious Romans to become the incumbent of one of the great offices. The more Assemblies, the smaller the share of their respective powers, and the greater the power of the magistracies. On the other hand, it was equally evident that the Parliamentary power of the old magistrates had to be set off by equal Parliamentary powers of the Tribunes. It is psychologically quite certain that the Tribunes could not possibly abandon their rights to Assemblies

of their own. As the Tribunes were, in Roman terminology, the *res facti* as against the *res juris* of the old magistracies, so was their Assembly to the *Comitia Centuriata* or *Tributa*.

It will now be seen that the much-applied comparison between the Roman and the English constitution does, essentially, not refer to a resemblance between their respective Assemblies. Between the English or British Parliament and the Roman *Comitia* there is no fundamental analogy. There is, however, as we have seen, one between the American Congress and the Roman Assembly. In both cases Assemblies are really meant to be weak, and subservient to certain extra-Parliamentary organisations and dominant personalities. The President of the United States is inevitably bound to become almost as powerful as was, in Republican Rome, a Consul, a Censor, or a Tribune. The American constitution, too, is largely cephalic, and must therefore necessarily more and more approximate the Roman type. Moreover, the United States is a vast polity consisting of a number of theoretically independent States; and accordingly the United States is very much more akin to Rome, which early in her history consisted of a number of intimately confederated States, than to Athens, which remained, with short intervals, one city-state by itself. America tends thus to the production of objective personalities, rather than to that of subjective ones. The latter kind, such as a Daniel Webster, are most unlikely to become Presidents.

V

It is now possible to place both the history and the character of the constitution of early Rome in their true light.

Considering that personality was, all through Roman history, the chief factor of legislative and administrative power, the traditional story ascribing the establishment of political or religious institutions in Rome to single kings has all *prima facie* evidence in its favour. Mere contradictions in the traditional reports cannot undo it. Roman tradition on the regal period is on a line with similar statements in English history ascribing the establishment of certain institutions in Equity to some particular Chancellor. One may doubt or even deny that that particular Chancellor established the institution in question. One cannot, by disproving such an establishment by a particular Chancellor, legitimately hope to prove thereby that no Chancellor at all had inaugurated that institution. Wherever Numa took his religious institutions from, and whether or no he really reigned such a long number of years in perfect peace with his neighbours, all that cannot destroy the least particle of force of the genuinely Roman argument militating in favour of the tradition, that Numa did establish many of the institutions of the Roman religion. What Niebuhr, Schwegler, Mommsen, and all the other partisans of the myth-theory really ought to do, is to offer proof that it was not Romulus, but Remus; not Numa, but another king who did Romulus' or Numa's work, possibly (as Mr. Lewis Carroll has suggested) under the same name. If they can do that—they have never done it so far—then we shall be obliged

to erase the name of Numa, and put another name in its stead; or simply use instead of Numa, the name of Numa II. This is all that mere sagacity or philological erudition can ever possibly prove.

It is needless to insist that all the above arguments only gain in strength when applied to the Roman tradition (*minus* its evidently mythical stories) regarding the other five kings. Unless we are given absolute proof, that not Servius Tullius, but some other king or person, introduced the Servian reforms, we have no right whatever, not the very shadow of a right, to doubt the tradition about Servius. It is as perfectly in harmony with the whole and with the details of the Roman constitution as is the statement that in 1075 A.D. there was in Rome a Pope universal by the name of Gregory V. This statement, as everybody knows, is quite wrong as to the number of the Pope. His number was not (Gregory) V., but (Gregory) VII. But he who would deny, not the correctness of the number, but the very existence of a Pope universal in 1075, would, no matter how learned, only prove himself to be absolutely ignorant of the strongest force in Church history. Yet (as already remarked in a former chapter) no ancient Greek could have ever persuaded himself that all civilised Europe would once believe in one spiritual head as the only and the supreme fount of true theology. Such a universal post or dignity never existed in pagan antiquity, and would have appeared to everybody a complete absurdity. That Greek, therefore, by picking out contradictions in the mediaeval sources, would triumphantly rush to the conclusion, not that a *Pope* Gregory did not exist in 1075, but that a Pope Gregory never existed at all.

We have no hesitation in saying, that the method and inevitable failure of that Greek are absolutely identical with the method and failure of so many modern scholars in relation to the regal period of Roman history. It is likewise most probable that the tradition according to which Rome was at first peopled by refugees and outlaws is quite true. For, the one possible explanation why Alba Longa, Veii, or any other central Italian town, did not come to be the head of all Italian towns, is the greater energy of the Romans. This energy is, as we have already seen, the ordinary outcome of polities in which foreigners and heterogeneous elements have great influence.

The Revolution of 510 B.C. was, on the face of it, caused very much less by the indignation felt by the Romans at the tyranny of King Tarquinius Superbus, than by his inefficiency. The pressure from outside became so strong, that the Roman people, finding that the King and his court officials were not capable to cope with it, resolved to ensure greater security from outside danger by strengthening their constitution. Had not pressure from without, but sheer indignation at an overweening king been the cause of the revolution of 510, the change of the constitution would have been infinitely less thoroughgoing. Another king would have been installed. However, the change *was* incisive; and therefore the vices of Tarquin cannot account for them. Hence those parts of the tradition in Livy and Dionysius that ascribe to the popular indignation at the King the principal share in the causes of the revolution may very well be legends. On the other hand, every portion of the traditional report confirming or harmonising with the fact that the

Romans in 510 B.C. earnestly desired to strengthen their constitution and its ready efficiency, has *prima facie* evidence in its favour. This is borne out by the indisputable fact, that the Romans subsequently always met internal grave dangers or external troubles by creating new magistracies. So followed the Quaestura in the first half of the fifth century B.C.;[1] the Censura in 443 B.C.;[2] the Praetura in 366 B.C.; the curule aediles in 366 B.C.; and the *dictatura* generally. The Romans, who placed all the powers of rule and law in a few magistrates, could not nor would ever contemplate the need of drawing up charters regulating their constitution. Not that the idea itself was unknown to them. They knew it, not only from hearing about such constitutional statutes in the Greek towns of South Italy, but from having themselves drawn up a charter in their private law. The Twelve Tables were a charter of private law. But in constitutional law the Romans could not issue charters. That law was entrusted to a few personalities, who both created and administered it. Hence in marked contrast to the nations of the Middle Ages, the Romans when discontented with the trend of political events never clamoured for a charter. On the other hand, it may now clearly be seen (as another example of the deep instructiveness of the study of the Roman constitution), that Magna Carta in England, or any one of the innumerable similar charters in other countries of mediaeval Europe, was insisted upon and clamoured for with such curious insistency, because the barons did *not*

[1] Livy, ii. 41, grave internal troubles.

[2] Livy, iv. 8; Dionys. Hal. xi. 63, ominous deficiency of the *census* for several years.

want to place real political power in the hands of any one person, whether king or magistracy. Thus the Romans never had elaborate and systematic treatises on their constitutional law, for the same reasons that the English never produced a systematic codification of their private law. In both cases the law in question was grafted upon and unintermittently produced by single personalities. Nothing more refractory to systematic treatment and final codification can be imagined.[1]

We can now also clearly see why each of the high *magistratus* was not only represented by two or more incumbents, but also by each incumbent fully. This too is utterly alien to our constitutional ideas. If in the United States there should be two Presidents instead of one, one of them would speedily become head of the Republican party, the other of the Democrats. The Romans never dreaded nor suffered from such inconvenient and dangerous consequences. Allowing as they did each consul to legislate, that is, to introduce *nova* into public law, and previous to 366 B.C. also into private, they could not possibly let each consul have only a portion of the power of the consulate. The power of creating law cannot be

[1] In the most resolutely destructive modern work on Roman history, in Pais' *Storia di Roma*, 1898 (vol. i. part i. pp. 572 *sq.*, more particularly p. 586), the age generally attributed to the Twelve Tables (450 B.C.) is denied as being quite unhistorical. Amongst the chief proofs of the author is a comparison between the slow growth of the English constitution in the Middle Ages and the Roman constitution. Such a comparison is as unmethodic as it is misleading. Between the two constitutions there is no *tertium quid*, or common point of comparison whatever. The history of English private law judges is, to a certain extent, the only legitimate object of comparison with the nature of Roman magistracy. The error involved in Pais' comparison is profound, and is one more proof of his radically false method of approaching the history of Roman institutions. In the special volume to be published by the author on Roman Institutional History the question will be treated in all its details.

divided. It is even so in English private law. The Chancellor's powers being also legislative, they could not possibly have been given in commission. They were necessarily personal. In practice, of course, there was frequently a distribution of functions between the two consuls; but not in law, as was the case in Athens, and as is the case now. Wherever absolute, that is, unconditional legislative power is granted, there a division of that power is *per se* impossible, as we shall see presently on considering the absolute powers in modern States.

It is likewise clear from the above study of the Roman magistracy, that the Romans could at no time consent to the reception of a foreign law. They could do that no more than could the English, and for the reasons given above. They insisted on *one* general charter of private law, the Twelve Tables, in 450 B.C., but never seriously troubled themselves to secure other such charters. For, less than a hundred years after the publication of the Twelve Tables they established the *Praetura*, that is, a Roman judicial magistracy, the incumbent of which made law as well as administered it. Before the rise of this new Roman legislative judge the need of a general charter was indeed very pressing, in that law could then be made only in the Assembly, or by the overcrowded consuls. One was as unsafe as the other. It will be readily seen, that a people who insist on a codification of their extant, if unwritten law, because they are unwilling to leave legislation on common law either to their assembly or to their two only magistrates (the two consuls), are absolutely unlikely to copy the law of an entirely foreign nation. Hence the stories of the commission sent

to Athens before the actual drafting of the Twelve Tables; at any rate the copying of Athenian laws by the Romans, are historically unlikely in the highest degree.

VI

We are now enabled to bring home to our modern mind all the leading features of the early Roman constitution by the only means by which a real understanding of old and bygone institutions can be obtained, by legitimate comparisons with their modern counterparts. So long as we are not in a position to point out the differences and their causes between ancient and modern institutions, we are nowise entitled to believe that we actually comprehend either.

The modern constitutions of Central and Western Europe consist, as already remarked when treating of the Athenian constitution, of two distinct *corps* of political institutions. One, the permanent bureaucracy entrusted with what is called by the French *administration*, and by the Germans *Verwaltung* (civil service, in England); the other, the Parliament. The bureaucracy is entirely ruled by statutes of organisation and routine, and its members have practically no real initiative. They are all representatives of the executive power of the State, and their spheres of function are graded according to a complicated but permanent hierarchy of order and responsibility. Parliament, on the other hand, consists of members whose initiative is unlimited, who, especially in the Lower or more important House of the two, are not at all hierarchically arranged. Each member of the Lower House represents the entire

nation; he has absolute freedom of speech; he is bound by no routine, and may propose anything he likes. Instead of a graded hierarchy there is a division by parties. Instead of a vertical division there is an horizontal. The Lower House recruits itself from the nation, without subjecting its candidates to examinations or any other specific training, or any other previous tenure of office. The Upper House has less political vitality.

This is, in outline, the essence of modern constitutions. It amounts to the fact that the absolute powers of the polity are vested, not in kings or emperors, nor in each member of the nation severally, nor in a few magistracies, but in the duly elected representatives of the stronger party and their leading committee, the Cabinet. As against this modern system, the Romans so strengthened the hands of their executive, that the magistracies were the real incumbents of all offices disposing of the absolute powers of the polity. Hence the Roman *comitia* were not organised on party lines as are our Parliaments, nor could the modern representative system ever arise. For that system is based on the assumption that the absolute powers of the polity, *i.e.* the legislative power together with the conduct of political affairs, are in the hands of the Assembly. However, in ancient Rome those powers were in the hands of the magistracies. Therefore all the interest and attention of the Romans were concentrated upon the elections of the magistrates, which with them took the place of our parliamentary elections; and since these magistrates were granted the very absolute powers that we now vest in Parliament, they also enjoyed the same extensive, not to say ex-

cessive privileges and rights. Theirs too was the absolute right of free speech, of full initiative, of freedom from routine, and in the case of multiple incumbents of one and the same office each incumbent had all the powers of the office in full, just as each M.P. has absolutely the same sphere of action as any other M.P. The *comitia* were largely of a mere formal importance. Membership of the *comitia* did not depend on elections, but on conditions of wealth or locality; while membership of the Senate depended only on having been one of the magistracies.

Even in modern times we can, on closer study of the several constitutions, discover greater or smaller analogies with the Roman model, according to the degree to which a modern country has realised the general idea of a modern constitution above outlined. Thus in modern France there are, properly speaking, no historic and well-organised political parties. Nor is the cause of this deficiency very far to seek. The French State proper has, in the last four generations, made more and more inroads on the absolute powers theoretically vested in the people. France is the most *officialised* nation in Europe. In Germany the state of affairs is not better; but at least twenty-seven Governments (counting the Empire too) share in that *officialisation* (*Verstaatlichung*, *étatisation*). This alone would be sufficient to cripple a vigorous party life; but in addition to an over-strong State, the French have also a powerful Church, organised more consummately than any other body-politic, and full of resources for the absorption of the interests and political sympathies of vast numbers of people. Under such circumstances, real political parties can arise in France only when either the State or the

Church is, or when both are temporarily deprived of their boundless and absorbing influence on the people. This explains sufficiently why France has never had a real Parliamentary life, that is, a life possible only where there are strong party organisations. French parties have proceeded on the lines of the antagonism between King *v.* State, or that of People *v.* King, and more frequently still of Church *v.* State. Accordingly, the modern French Parliament is to the all-absorbing French State, at the best, in the situation of a corporate Tribunate. The French Parliament can very well oust this or that great minister, just as a Roman tribune could checkmate any Roman magistracy. It is, however, evident that the interference of the French Parliament must thus necessarily be fitful and full of surprises. In England, where the Church was politically shelved nearly four hundred years ago; where the bureaucratic State even at the present day has none of that immense power wielded by the State in France; in England, the absolute powers of the nation had free flow into the only outlet that remained for them, into party and parliamentary life. In England, therefore, the great personalities vested practically with absolute power form the Cabinet, and not, as in Rome, the *magistratus.*

On full consideration of the nature of the Roman constitution, we can now very well understand why the long struggle between the Roman patricians and plebeians in the fifth and fourth centuries B.C. was practically a bloodless one. Without any intention of minimising the moral greatness, moderation, and self-control of the Romans of those times, we are bound to state that, in the times of the Greeks as

well as now, there were and are still very many citizens of moral greatness, moderation, and self-control. If, then, the Romans proved able to practise these great virtues where the Greeks or we ourselves fail to put them into execution, they must have, in all human probability, been exposed to far less exasperating trials. This we take to have been the case. In Greek republics, and in many a mediaeval and modern party struggle, the *locus* of the strife was in the Assembly. There masses of people, grouped according to their party interests, were arrayed against one another. Violent speeches were heating the blood of the antagonists; class laws were decreed; acts of overbearing injustice were ordered by the victorious party. After several repetitions of such scenes the struggle readily degenerated into anarchy. Masses will more easily become unruly than individuals. In Rome, on the other hand, there were no turbulent discussions in the Assembly. The electric atmosphere of public debates was wanting. Moreover, exasperating cases of injustice in law-courts were as a rule unknown, in that plebeians as well as patricians were acting as the single *judex* or judge in Roman lawsuits. Finally, the chief point at issue in early Rome was the magistracy. Given now the exceedingly powerful office of any one of the higher magistracies in Rome, for which the plebeians were contending, it is, we take it, quite evident, that masses of people will be very much less easily moved to excesses from a desire to procure an exceedingly eminent post for one or two amongst them, than for privileges directly touching their own several interests. In the Greek and in the mediaeval or modern sanguinary party struggles, the issues were

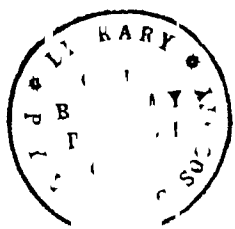
invariably class interests influencing the direct interest of each individual member of that class. In early Rome it was not so. In point of private law all citizens had long been on a footing of perfect equality. In public law they could, if sufficiently rich, vote in the higher or influential *centuriae* without distinction of rank. No patrician *magistratus* could, since the establishment of the *Tribunatus* a few years after the revolution of 510 B.C., really do any serious harm to a plebeian. Accordingly, the refusal of the object of plebeian ambition in the fifth and fourth centuries B.C. could not possibly fill the plebeians with a rancour or animosity remotely similar to that naturally felt by Greek or mediaeval political parties. Once the patricians had granted the plebeian Tribunate, it must have been in their own class interest to grant the plebeians, if only by degrees, access to the magistracies. A popular plebeian consul, they could not but see, might very well prove more useful against overbearing plebeian tribunes than two patrician consuls could ever be. We still have various cases on record where the mere *auctoritas* of the consul or Senate effectively neutralised the theoretically boundless power of the tribune.[1] In a polity where the centre of gravity was neither in the public Assembly nor in the parties constituting it, but in annual or short-lived magistracies, the accession of a well-intentioned incumbent would more easily heal the soreness eventually left by his immediate predecessor, than could ever be the case in a polity where the soreness festering in the people was owing to discontent with

[1] See Livy, iv. 60; xxxi. 21; sometimes the tribunes did not dare to intercede for several years, Livy, ix. 33.

the entire system of the State. The system nobody ever attacked in Rome. In Greece and in mediaeval party struggles it was very frequently the system, and not the person of the incumbent, that was the object of deep popular passion.

The very continuity and steadiness of the old Roman constitution clearly testifies to the absence of any such issue as is likely to call forth the sombre and more implacable passions of people. Roman political *virtus*, in home matters, in the first three hundred years of the Republic was admirable. Not the least of its causes was the lack of very serious temptations and trials within the State.

It is now quite clear how the Roman Senate came to be the centre of the foreign policy of the Roman Republic, and one of the greatest powers in Rome. The senators were late incumbents of the magistracies. They had learned how to wield and administer public powers. They entered the Senate more efficiently prepared by actual practice in politics, judicative and military command, than are members of modern Parliaments. Having exercised boundless power, they naturally knew how to subordinate themselves as members of a body of councillors.



BOOK IV

THE TIMES OF THE PUNIC WARS

At the beginning of the fourth decade of the third century B.C., Rome had become the virtual, and to a large extent the actual ruler of Italy. The great Republic could, therefore, no more avoid being implicated in the policy of the Sicilian city-states of the Greeks than could the rulers of Macedonia and Carthage. Roman imperialism was even at that time far more strongly established than either Athenian or Spartan imperialism had ever been. The Greeks in Sicily, as well as those in Greece proper or in Asia Minor, were unable either to found a preponderant and master city-state, or to unite themselves into a powerful league. In their constant brawls and wars, each of them was naturally eager to secure the aid of States that could turn the scales in its favour. Sicily especially has never been able to unite her numerous city-states and nations into one imposing State. The exceeding fertility of this, the island of Ceres, and its inestimable position in the Mediterranean, incited the cupidity of all the neighbouring States. In fact, the possession of Sicily was perhaps necessary for maritime supremacy in the Mediterranean in ancient times; and, probably, the very jealousy of countless conquerors from abroad prevented the Sicilians from ever building up a State

conterminous with the coasts of their island.[1] Her populous cities, such as Syracuse, Megara, Himera, Selinus, Panormus, Messina, and Agrigentum, were built mostly by Greeks, and hence adorned with all the choice treasures of Greek art and ingenuity. The Carthaginians were aware of the importance of the conquest of Sicily at a very early stage of their history. Already in (about) 550 B.C. Malchus, one of their generals, succeeded in reducing the greater portion of Sicily to submission. The Etruscans helped the Carthaginians to reduce the ascendancy of the Massaliotes, whom the allies defeated in the battle off Alalia, in Corsica, about 536 B.C., the first naval battle known to have taken place in the western Mediterranean. In 480 B.C., on the very day (?) of the battle of Salamis, Gelon, the ruler of Syracuse, relieved the heroic Theron who was besieged by the Carthaginians, under Hamilcar, in Himera, and signally defeated the vast army of Carthage. Seventy years of peace from the aggressive Republic were vouchsafed to Sicily after that victory, glorified by the poet Pindar in the first Pythica. After 410 B.C. Syracuse carried on a war of nearly 150 years' duration with Carthage. Dionysius the elder, Dionysius the younger, the noble Corinthian Timoleon, and Agathocles, were the chief leaders, and at the same time the rulers of the "rock of Sicily," the most splendid town of ancient times. Timoleon forced the Carthaginians back into their old restricted possessions in Sicily (339 B.C.), and Agathocles boldly crossed the sea and attacked and conquered hundreds of subject-places in the African territory

[1] Under Dionysius I., tyrant of Syracuse (405-367 B.C.), and under Pyrrhus (278-276 B.C.), Sicily was to a certain extent united.

of Carthage (310-307 B.C.). Constantly harassed by Carthage, the Sicilians finally implored Pyrrhus for help. The Epirote conqueror arrived in Sicily in 278 B.C. (see above, p. 24); and when leaving the beautiful island, with its riches natural and artificial, he is said to have exclaimed: "What a beautiful battlefield I leave to the Romans and Carthaginians!"

The prophecy of that fantastic hero was soon realised. The Mamertines, the Campanian mercenaries of Agathocles, had by treacherous pretences got possession, first of the rich town of Messina (opposite Rhegium), whose scythe-shaped, spacious port was nearest the Italian mainland; and then of several other Sicilian places, at least as far as the valley of the Symaethus. These foot-soldiers were hard pressed by Hiero, the beautiful, wise, and successful new *strategos* of Syracuse, who subsequently became king. In their distress the Mamertines implored help of Rome, 265 B.C. The Roman Senate was divided — some scorning the idea of helping mercenaries like those of Rhegium, that had been condemned to ignominy and death (see p. 24); others seeing and urging the necessity of anticipating the Carthaginians, who would otherwise assist the Mamertines in capturing Messina, the key to Italy. The war party prevailed, and rightly. For, although the possession of Messina might have easily been secured by Hiero, naturally the friend and ally of Rome, being as he was more in danger from Carthage than from Rome, yet the war between the two great city-states had become inevitable in any case. Rome could not stop at the conquest of Italy. Even if she had desired to do so, the absence of any great

and powerful State in the eastern or western half of the Mediterranean continually gave rise to numberless conflicts, from which Rome could only hold aloof at the risk of her prestige and of her very existence, apart from the necessity of maintaining the discipline so absolutely needed by the overstrung character of the Roman State, by the stern practice of war. Had Alexander the Great, instead of conquering the East, not only conquered, but effectively transformed Greece and Macedon into a mighty monarchy of strong and enduring organisation, the Romans would have been called upon, not to fight the Carthaginians, but to defend whatever they had conquered in Italy previous to the advent of Alexander.[1]

The military tribune C. Claudius was sent by the consul Appius Claudius to Rhegium, whence he could cross only with great difficulty the Straits of Messina. Once in Sicily he frightened the wavering Mamertines, who had meanwhile admitted a Carthaginian garrison under Hanno, by his reckless energy; obtained and abused an interview with Hanno, whom he forced to dismiss his soldiers, and so finally got possession of Messina (264 B.C.). The Senate of Carthage caused Hanno to be crucified. Meanwhile Appius succeeded in crossing the straits, and after defeating Hiero and the Carthaginians at Messina, bore down on Syracuse, Hiero having been so far the reluctant ally of Carthage. The Roman army, being ill-provided, suffered greatly not only from famine and camp-

[1] About the immediate circumstances provoking the first Punic war we have only two somewhat elaborate reports: (*a*) in Polybius, i. 8, 9, and (*b*) in the *Annales* of Zonaras, viii. 8. The two reports do not agree, nor do they quite clash. We have followed that of Zonaras, it being the most likely and least contradictory.

diseases, but probably also from occasional sharp rebuffs. Polybius suppresses these in his account; other authors, however, give sufficient hints to enable us to learn the truth.[1] In 263 B.C. one of the new consuls, M. Valerius Maximus, subsequently surnamed Messala, defeated Hiero and the Carthaginians (probably near Messina, whence his *cognomen*), and sixty-seven of the terrified Greek cities of Sicily, together with Hiero, who gladly joined them, offered peace, alliance, or submission to the Romans. Hiero then became and continued to be the faithful ally of Rome. This alliance proved one of the strongest bases of the Romans, giving them as it did free access to any of the ports of Hiero's dominions, that is, the eastern portion of Sicily. The noble-minded king, more than any one else, helped the Romans to take Agrigentum (Acragas) after a siege of seven months, in 262 B.C., and thus a new and very valuable basis of operations was won. During the next year, 261 B.C., the Carthaginians devastated the coasts of Italy and damaged Roman interests in many ways. The absolute lack of Carthaginian reports about the first Punic war has no doubt deprived us of the knowledge of many an event in 261 B.C., since the resolution of the Roman Senate in 260 B.C. to attack Carthage, then the first maritime power amongst Mediterranean States, must have been the result of great pressure having been brought to bear on Rome. Within two months, it is said,[2] after the felling of the requisite trees, a navy of 120 vessels (100 *penteres* and twenty *trieres*)

[1] Compare Polybius, i. 15; Zonaras, viii. 9 (on the famine at Syracuse).

[2] Florus, ii. 2, 7. See also Pliny, *Naturalis Historia* xvi. 192 (or *sectio* 74), where various examples of rapid building of ships are given. About Messala's triumph see also Pliny, *Nat. Hist.* xxxv. 22 (or *sect.* 7).

was built and rendered formidable by the application of the *corvus* or boarding-bridge attached to a pole. The *corvi* had sharp iron beaks at their end, and being movable in nearly every direction, they fell on the hostile ship and fastened it to the Roman vessel, thus transforming the naval into a land battle. The greater experience of the Carthaginians and their superior ships would have, but for the *corvi*, told most disastrously against the Romans, whose rowers were untrained and averse to the slavish labour of rowing. By means of this new invention, which they possibly learnt from the Greeks,[1] the consul, C. Duilius, succeeded in defeating the Carthaginians under Hannibal off Mylae in 260 B.C. Rome was frantically jubilant over this her first naval victory over the first maritime power of the day. And it cannot be denied that the battle of Mylae was of the greatest importance for history generally. The spell was broken, and Rome could aspire to still greater results. Sardinia and Corsica, both of vital significance to the Carthaginians, the former for its abundant ore, the latter for its inexhaustible treasures of naval material, especially pine-trees available for masts, were forthwith attacked. The consul, L. Cornelius Scipio, defeated Hanno and took Aleria (Alalia), a city in Corsica,[2] and overcame Hannibal in Sardinia, whence he brought thousands of prisoners to assist at his triumphal entry into Rome in 259 B.C. During that year the Romans encountered several defeats in Sicily at the hands of the heroic Hamilcar, the general of the Carthaginians. The Greeks of that island were estranged from the Romans by the ruth-

[1] C. Neumann, *Das Zeitalter d. pun. Kriege* (Breslau, 1883), pp. 100, 101.
[2] See the inscription on his tomb in *Corp. Insc. Lat.* i. p. 18, No. 32.

less cruelty of some of the consuls, who on taking Hippana, Mytistratus, Camarina, and other places, treated the captive Greeks with abominable severity. The years 258 B.C. and 257 B.C. did not bring matters to a climax either, and therefore the Romans resolved to put an end to the war by attacking Carthage herself, as had been done by Agathocles (see *Atlas antiquus*). Under the consuls L. Manlius Vulso and M. Atilius Regulus, 330 vessels, containing 40,000 soldiers, 100,000 rowers, and horses, sailed round the Cape of Pachynum in 256 B.C. They were attacked by Hamilcar and Hanno off Mount Ecnomus, but succeeded in defeating them; they set sail for Africa, and captured Clupea, not far from Cape Bon. Regulus, left alone, for his colleague and his troops had been called back to Rome for unknown reasons, immediately advanced, devastating the rich country studded with the splendid villas and mansions of the wealthy Carthaginian merchants. Carthage closed her gates terror-stricken. Regulus, an overwhelmingly conceited, harsh, and overbearing personage, stopped short of nothing but complete submission to Rome, and the trembling envoys of Carthage would have perhaps agreed to conditions however desperate had not the Punic commonwealth found a saviour in the Spartan Xanthippus, one of their hired officers. The shrewd Greek at once saw that Regulus, shorn of help from Rome, and foolishly scorning help from the African tribes, was in reality no great danger at all. Inuring the mercenaries of Carthage to severe military discipline during several weeks, he was given the chief command, and making a clever use of elephants, he signally defeated Regulus in 255 B.C. and took him captive. Of Xanthippus we never hear again;

regarding Regulus, gruesome stories are told of the cruelty of the Carthaginians and of his more than heroic stoicism and loyalty to Rome amidst fearful tortures. The one is as unlikely as the other, and Regulus has, in all probability, enjoyed the fame of an ideal Roman without any justification.[1] The panic caused by his defeat at Rome was soon dispelled by the victory of a new Roman fleet off Cape Hermaeum near Carthage in 255 B.C. The Romans, who evidently feared to continue the war in devastated Africa, at once turned their faces homewards by Camarina, despite the advice of experienced pilots who warned them of that route on account of its fearful and sudden hurricanes in the month of July. The neglect of that advice cost the Romans 240 of their 320 vessels, and nearly the whole of their crew.

However, the Roman Senate, nothing daunted, at once had a new fleet built, which commenced operations along the north coast of Sicily, by taking populous Panormus and other cities. The next year was spent in naval marauding expeditions on the part of the Romans, who, ignorant of the nature of the Mediterranean winds, again suffered fearful disasters; so that finally the Senate restricted the number of vessels to sixty. In 252 B.C. the Romans secured some places in Sicily; but it was in 251 that the Carthaginians again brought a powerful army to Sicily. Hasdrubal, its leader, at first avoided

[1] The fable of Regulus being put to death by the Carthaginians accompanied by unspeakable tortures after his return from Rome, whither the Carthaginians had sent him to speak in their favour, but where he had acted to the contrary, has been invented, probably, to explain the fact that Regulus's widow maltreated in the most revolting way two captive Carthaginians. (See Diodor. in *fragm. libri* xxiii. (ed. Wesseling-Heyne), pp. 323, 324, 327, 328; and especially pp. 344 *seq.* (*l.* xxiv); and C. Neumann, *op. cit.* pp. 125-127.)

an encounter with the well-equipped Romans, and the latter were likewise apprehensive of Hasdrubal's elephants. At last Hasdrubal thought of scoring an easy victory over L. Caecilius Metellus, at Panormus, whose colleague, together with his troops, had departed for Rome to preside at the *Comitia*. But Caecilius inflicted a most disastrous defeat on the Carthaginians beneath the walls of Panormus, and sent home 120 elephants to the gazing people of Italy (251 B.C.). Even previous to the victory of Caecilius, the Roman Senate had, in spite of the strong opposition of its conservative members, come to the conclusion of again trying the chances of a naval war, the continental war dragging along without a definite issue. Accordingly, a new fleet was built and sent off to Lilybaeum, a fortress almost impregnable by nature and art, and, together with Drepanum, the last stronghold of Carthage in Sicily. It was subjected to the first great siege that the Romans ever conducted. The commander of Lilybaeum, Himilco, was a match both for Roman valour and for the ingenuity of the Greeks employed by the Romans in running up earthworks, turrets, or making subterranean mines. The obstinately conducted siege led to no result; nay, a bold Carthaginian admiral entered the harbour during a storm in the very sight of the Roman fleet, and brought succour to Himilco; and when the latter had destroyed all the laborious machinery of the Romans, by setting fire to it, availing himself of an opportune west wind, the siege practically proved abortive. The new consul, P. Claudius Pulcher, one of the hopelessly arrogant and dry-brained Claudii, wanted to put an end to the odious entanglement by a naval battle. He sought Adherbal off Drepanum, and was

shamefully defeated (249 B.C.).[1] About a hundred Roman vessels and 20,000 men were lost. Other misfortunes were not far distant. Roman transport vessels, closely pursued by Carthalo, another very able Carthaginian, were partly destroyed by tempests, partly forced to run ashore on the southern coast of the island. Yet the siege of Lilybaeum was kept up; the invincible Senate, while unable to stop Carthalo from ruling the sea, and pillaging the coasts of Italy, unswervingly continued its policy, and in the main did uphold its possessions in the island. With Hiero they now concluded an eternal alliance. The Carthaginians, although sadly exhausted in their finances, likewise persisted in the war, and now (247 B.C.) produced one of the greatest generals of ancient times, in addition to the already considerable list of her able leaders. Hamilcar, surnamed Barcas (the lightning), at once manifested his strategic genius by occupying Eircte (now Monte Pellegrino), a very steep and solitary elevation near Panormus, whence he constantly harassed the besieging armies before Drepanum and Lilybaeum, and even made inroads on the coasts of Italy. From 247 B.C. to 242 B.C. neither the Carthaginians nor the Romans showed much vigour in the continuation of the war. The Carthaginians were probably engaged in African troubles; the Romans sent very poor generals. Finally, private Roman citizens, tired of the interminable and pernicious war, and encouraged by successful prize-raids, launched at their own expense a considerable fleet, and Consul C. Lutatius Catulus completely

[1] This was, as far as we can gather from our, of course non-Punic, sources, the only great naval victory of the Carthaginians over the Romans in the first Punic war.

defeated a Carthaginian fleet of mostly transport ships off the Aegatian Islands (241 B.C.). The Romans being thus masters of the sea, even Hamilcar was forced to accept peace, the chief stipulation being the surrender of all claims on Sicily, and the payment of 3200 talents—1000 talents at once, the rest within ten years.[1]

We have dwelt on the first Punic war at some length, as it was the first manifest sign of the grand destiny of Rome. We say destiny, for the mistakes which the Romans committed during that war (as that of depriving Regulus of a whole consular army, close to the gates of Carthage) were such as to be fatal to any one whom a special patronage of the Fates does not protect. In truth, even more numerous defeats would not have delayed the final virtual victory of Rome. For Carthage, for reasons unknown to us, was not a suitable rival for one who had conquered Italy. The shortcomings of the Romans in the military conduct of the first Punic war have been set forth with unusual clearness and precision by Mommsen. We therefore adjoin the passage, throwing, as it does, into still stronger relief the overruling destiny of Rome: "The Roman Senate and the Roman military system," says the author of the *Roemische Geschichte*, "were excellently organised for a purely Italian policy. The wars which such a policy provoked were purely continental wars, and always rested on the capital situated in the middle of the peninsula as the primary basis of operations. . . . The problems to be solved were mainly tactical, not strategical; marches and operations occupied but a subordinate, battles held the first, place; siege warfare

[1] Polybius, iii. 27 (the text of the treaty).

was in its infancy; the sea and naval war hardly for a moment crossed men's thoughts. We can easily understand—especially if we bear in mind that in the battles of that period, where the naked weapon predominated, it was really the hand-to-hand encounter that proved decisive—how a deliberative assembly might direct such operations, and how any one who was mayor of the city might command the troops. All this was changed in a moment. The field of battle stretched away to an incalculable distance, to the unknown regions of another continent, and beyond a broad expanse of sea; every wave was a highway for the enemy, every harbour might send forth an invading fleet. The siege of strong places, particularly maritime fortresses, in which the first tacticians of Greece had failed, had now for the first time to be attempted by the Romans. A land army and the system of a civic militia no longer sufficed. It was necessary to create a fleet, and, what was more difficult, to employ it; it was necessary to find out the true points of attack and defence, to combine and to direct masses, to calculate expeditions extending over long periods and great distances, and to adjust their co-operation. . . . Is there any wonder that the reins of government in such an exigency slipped from the hands of a deliberative assembly and of commanding burgomasters?"[1]

One final remark must be made. It has already been said that the extant chronicles describing the first

[1] Th. Mommsen's *History of Rome* (W. P. Dickson's translation, London, 1868), vol. ii. pp. 61, 62. It need scarcely be urged that Mommsen's *manière* of calling a Roman consul a *burgomaster* is no more than a *manière*. A German burgomaster is more remote from a Roman consul than is a modern consul.

Punic war are extremely deficient, in that not one of them is derived from a Punic source. We can, therefore, by no means claim a thorough knowledge of that war. In fact, many of the most decisive points of that famous war will remain obscure for ever unless we discover new, authentic Punic reports. Of the subjects concealed from our knowledge, none is more to be regretted than the constitution of that famous city, which played such a momentous part in the history of the commerce and politics of the ancient world. The statements regarding the constitution of Carthage, still to be found in Aristotle, are singularly unsatisfactory and self-contradictory.[1] Nor is the narrative of Polybius more complete or precise. It is useless to pretend, by repeating the seven terms of the main constitutional institutions of Carthage, as given in Aristotle,[2] that we understand what they meant. Some modern ethnographical historians exist for whom Semitism, whether of ancient Carthage or of modern Berlin, contains no secret at all. With the inventiveness of antipathy, they declaim and criticise precisely some action of the Carthaginian Senate, or the Carthaginian *Suffetes* (judges), as Livy calls we know not what kind of supreme magistracy at Carthage. As was said in the *Introduction* of this work, we do not believe in using

[1] Compare the inconsistency of *Politics* ii. 11 with v. 12 (one passage states, the other denies, the absence of revolutions in the Carthaginian constitution; unless we are, in v. 12, to read Chalcedon, instead of Karchedon). Aristotle's view of that constitution has been published separately, together with a learned commentary, and a reprint of an essay of Theodorus Metochita (fourteenth century A.D.) on the constitution of Carthage, by F. G. Kluge (*Arist. de politia Carthag.*, Breslau, 1824). Theodore's essay is worth reading; see about him, J. A. Fabricius, *Bibl. Gr.* x. 412 *sq.* (ed. Harl.).

[2] Αἱ ἑταιρίαι, ὁ δῆμος, ἡ γερουσία, οἱ βασιλεῖς, αἱ πενταρχίαι, οἱ ἑκατὸν καὶ τεσσάρες, οἱ ἡγέμονες.

the notion of *race* as a means of comprehending history. The first settlers of Carthage, under the (mythical?) Queen Dido (ninth century B.C.), came most likely from Semitic Phoenicia, and were Semites in speech and customs. Whether they stayed so for centuries after we cannot decide. Certainly, the custom of taking non-Semitic wives must have been not unfrequent, since we hear of several great Carthaginians having married Greek women. But even if they had maintained their Semitic "race-character" quite unchanged, our knowledge of other Semitic races does not entitle us to judge of the Carthaginian constitution. Certainly the discrepancies between the ancient Israelites, the Phoenicians, and the Arabs, or the Assyrians — all of them Semites, *si Deo placet*—are wide enough to warn us from any attempt at deducing the constitution of one from that of the other. It is the same, too, with the religion of the ancient Carthaginians. That *Tanit* (Venus) and *Moloch* (Chronos ?) were their chief deities, and that children were sacrificed to the latter, and the chastity of women to the former, are some of the reports we read of in Greek and Roman writers. The sacrifice of children is not improbable. The Carthaginians, hiring their armies instead of serving themselves, felt no doubt the necessity of riveting the bond of mutual coherence and common membership more closely and intimately than could be effected by mere payments of taxes, or of fees for the mercenaries. They therefore, under the impulse of bringing the State some supreme sacrifice, offered up their children. We love nothing more intensely than the beneficiary of our greatest sacrifices. Yet we must always consider our knowledge of the Carthaginian religion as utterly in-

sufficient. The several thousand Punic inscriptions found in Africa and elsewhere are unfortunately either too fragmentary or too uninstructive. We must therefore abstain from discussing the constitution and religion of Carthage, and are thus unable to reconstrue the first Punic war in an adequate manner. Of Carthaginian institutions, the vast commerce and the colonisation of Carthage are the best known. Nothing can be more astounding than the valour and adroitness of the merchants and colonisers of Carthage. From the pillars of Hercules (Gibraltar) to Great Britain, Ireland, and the Scandinavian States, they visited every country, founding factories, concluding treaties, and interchanging the goods of the civilised south with the natural riches of the barbarous north. They might be seen in the harbours of Africa as far south as Guinea, and in those of Egypt, Phoenicia, Greece, and Italy. Centuries before the modern Europeans thought of the introduction of bank-notes, the Carthaginians had already employed money assignations stamped on pieces of leather, which served in lieu of modern bank-notes. The number of their mines and factories was colossal, and the territory of Carthage proper, extending far into Africa, they had converted into a paradise of agriculture and gardening. From Roman reports, mentioning Punic libraries burnt at the destruction of Carthage, we gather the existence of an extensive literature of the Carthaginians; and their very mercantile energy and agility are indicative of superior mental endowments. Although their armies were composed of the refuse of innumerable nations, their slingers coming from the Baleares, their infantry proper from Spain and Gaul, their cavalry from Numidia and their

artillery from Greece; yet the Carthaginian generals very frequently brought that motley and incongruent crowd into a state of good discipline, and made them a body of most efficient soldiers, who not only defeated but, under Hannibal, utterly prostrated the Romans.

From all this it is evident that the Carthaginians, far from being an inferior set of merchants, were a city republic of the very highest order. Their weakness, and the very cause of their downfall in the struggle with Rome, was, it would appear, their inability to assimilate other States or to render them faithful allies. This became painfully evident in the first Punic war. Had Hiero, instead of being the ally of Rome, been the true friend of the Carthaginians, the Romans would have been unable to wrest Sicily from them. But not only Hiero, but also nearly all other nations and city-states, whether subject or allied, felt little sympathy, and certainly showed no loyalty, for their mistress and ally in times of peace or war. Carthage, it is said, exploited the subject States in the most relentless and shameful manner. That is possible. One thing, however, is more certain than their alleged cruelties and abuses; that is, the lack of a properly trained organ for the conduct of their foreign affairs. Nowhere do we meet with such an organ in Carthage. The Punic republic staked, therefore, everything on the issue of battles, expecting no assistance from the resources of diplomacy. In war, the Romans of the first Punic war were great tactically only, not strategically. In that respect the Carthaginians, naturally more gifted than the Romans, were their superiors, and most of all Barcas. In policy, however, the Carthaginians were great tacticians and not at the same time great strategists; the Romans, on the other hand,

were both. The final issue was thus inevitable from the outset. The shortcoming of the Romans was amenable to improvement by time and experience. That of the Carthaginians, probably due to their excessive wealth, was inherent and unchangeable. For being able, as the Carthaginians were, to supply the army with any number of men, nay, with whole nations, they did not feel the necessity of attaching nations by diplomacy and leagues. The weight of their own gold crushed them. States are ideal entities, and can be sustained by ideal forces alone. Money will control the market, not the *forum*. The Carthaginians received a fearful object-lesson of that truth. Soon after the end of the first war with Rome, Carthage was obliged to carry on "the inexpiable war" with her mutinous mercenaries, under Mathos and Spendius, for over three years. Wild beasts would not have treated one another more brutally, and the war, terminated by the skill of Barcas, ended with the total exhaustion of victorious Carthage.[1] The Romans, ignobly enough, seized the opportunity of her enemy's dejection, and occupied Sardinia in breach of all international rights.

During the twenty years following the first Punic war, the Romans conducted two great campaigns—one against Queen Teuta of Illyria, who, instead of redressing the injury done by her cruisers to some Italian merchants, not only refused amends, but also suffered one of the Roman ambassadors to be killed; and the other against invading Gauls, Boians, Insubrians, and their allies, the "Gaesatians" (mercen-

[1] Gustave Flaubert's novel *Salammbô*, based on a very conscientious study of the sources, gives a fascinating and true picture of Carthage at the time of that pernicious war.

aries), tribes from beyond the Alps. The Illyrian war was quickly ended, Teuta being punished, and several Greek States, such as Corcyra (Corfu), Epidamnus, and the commonwealths of the Atintani and Parthini, being made allies of Rome (228 B.C.). It was soon after that the first Roman embassy went to Corinth and Athens. The war against the northern barbarians, for which the Romans mustered all their Italian allies,[1] so apprehensive were they of its danger, ended, after a defeat at Clusium (225 B.C.), or what is more probable, near Val di Chiana, near Siena, with the final victory of the Romans, who beat the invaders at Telamon (225 B.C.), on the Clusius River (223 B.C), at Acerrae and at Clastidium, taking in the end Mediolanum (Milan), the fortified head-quarters of the Insubrians. C. Flaminius, one of the consuls in that war, had the Flaminian road constructed, by which the conquered districts were more closely connected with Rome (220 B.C.). This victorious campaign only intensified the commanding position of Rome in Italy. For, as has been remarked above, Rome's supremacy in Italy rested on her carrying out with success the task inherent in her central position —namely, the repression of the northern barbarians; just as Rome's international task, or her imperialism, was the result of her being the central country of the Mediterranean States. Nowhere did the Carthaginians manifest their baneful shortsightedness in foreign policy more clearly than in their neglecting to allure the barbarians of the north of Italy to a raid on Rome during the first Punic war. Nor does the proverbial good fortune of Rome shine out anywhere more brilliantly than in the coming of those

[1] According to Polybius, ii. 24, 700,000 foot and 70,000 horse.

barbarians *after* the Punic war. Indeed, the Romans were right in erecting temples to *Fortuna* long before they built chapels to the gods of Virtue, Fortitude, or Wisdom.[1]

The Second Punic War. — Rome's historical destiny was hastened by the ever-memorable war waged by the Carthaginian Hannibal, son of Barcas, with the Romans. Fortunately for our desire to understand this, perhaps the most memorable war of history, its salient features were of a nature far too gigantic to suffer considerably from the obscurity or contamination of our sources. Yet many an important point is still in the dark. Thus the chronology of some of the chief events is greatly confused, Livy putting, for instance, the campaigns in Spain, beginning in 211 B.C., a year later. The numerous problems offered by Livy's manner of using his authorities have given rise to a vast literature of essays and books, chiefly in German. The result of these inquiries may be said to be very poor, and, with the exception of Nissen's "law," mostly negative in nature.[2]

[1] Plutarch, *De fortuna Romanorum*, chap. v.

[2] H. Nissen, in a work entitled *Kritische Untersuchungen über die Quellen der 4. u. 5. Dekade des Livius* (Berlin, 1863), pp. 76-85, has tried to prove that Livy never welds (or *contaminates*) several authorities into one critical composite report, but invariably follows one authority at a time. This "law" (*Einquellentheorie*) seemed to offer a fair hope of reducing Livy to his elements, and thereby gauging the historical value of his statements. However, in spite of numberless essays and books (the most important of which are given in W. S. Teuffel's *Hist. of Roman Literat.*, Eng. tr. by G. C. W. Warr, Lond. 1891, vol. i. pp. 527, 528; to which add Ben. Niese, *De annalib. Rom. observ. alterae*, in *Index lect. Marburg. aest.* 1888), and especially of W. Soltau, *Livius Geschichtswerk* (Leipsic, 1897, pp. 223), where the whole "literature" of the question is discussed; we have not yet arrived at anything approaching certainty. The two prevailing opinions, it would appear, are (*a*) that held by Th. Zielinski, who makes Livy use the *Histories* of Polybius only from the twenty-ninth book onward; (*b*) that defended by H. Hesselbarth (chiefly in his *Hist.-Krit. Untersuch. zur*

The causes of the second Punic war were, *in ultima analysi*, the same that had necessitated the first conflict between Rome and Carthage. For the Punic republic could not possibly forget the loss of Sicily and Sardinia, nor could she stop from extending her realm. Rome, on the other hand, was in the same position. There being no domineering empire either in the eastern or in the western half of the Mediterranean, the supremacy of Rome, just as unsought for as it was inevitable, could not suffer the Carthaginians to renew their power in Southern Europe. Thus the conflict was indispensable. Hamilcar, the invincible hero of Sicily, was fully aware of this. It was probably at his advice that the Carthaginians, with a view of making good their losses, undertook an expansion of their empire in Spain, a country rich in minerals and cereals, and inhabited by one of the best military races of Europe. Moreover, Spain could be conquered without infringing upon the treaty with Rome, which forbade the construction of a new navy. Hamilcar accordingly repaired to Spain, and during nine years (probably from 238 B.C. to 229 B.C.) unremittingly warred with the various Iberian tribes, nearly all of whom he defeated, subjected, or organised into Carthaginian allies. His son Hannibal had followed him to Spain, and Hamilcar, burning with hatred of Rome, caused the lad to swear on the altar that all his life he would think of nothing but the extermination of the Romans. The man faithfully kept the oath of the boy; and during all her long

dritt. Dekade des Livius (Halle, 1889), especially pp. 588, etc.), to the effect that Livy used Polybius for the Greek, Sicilian, Spanish, and African events from his twenty-fourth book onward. Both to Nissen's "law" and its application to all the historians of antiquity, very strong and sensible objections have been made by L. O. Broecker in his *Moderne Quellenforscher u. antike Geschichtschreiber* (Innsbr. 1882).

existence Rome never knew of an enemy more formidable than Hannibal. After Hamilcar's death (229 B.C. ?), the circumstances of which are not certain, his son-in-law, Hasdrubal, a beautiful, shrewd diplomatist, continued for eight years the work of his father-in-law, while Hannibal, at his father's death a youth of seventeen, quickly manifested his extraordinary gifts for inspiring, organising, and leading his soldiers to victory. The campaigns under Hasdrubal were one long and effective lesson for Hannibal. The Romans having interfered, in spite of a treaty to the contrary, with Saguntum, Hannibal, who rightly considered all places and nations south of the Ebro as within Carthaginian "influence," laid siege to Saguntum. The siege probably lasted eight months; and when Hannibal's army finally so encircled the well-defended town that escape was impossible, the desperate Greeks, it is said, burnt themselves and much of their treasures in one huge pile (219 B.C.). War with the Romans thus became imminent; and Carthage, unwilling to hand over Hannibal to the menacing ambassadors of Rome, at last accepted the inevitable war in the spring of 218 B.C.

The war which now followed, although theoretically one between Carthage and Rome, was in reality a titanic duel between Roman Italy and Hannibal. Did we accept the race theory so current in our time, we should at this juncture indulge in melodramatic meditations over the astounding fact that the two personages of antiquity who, one in religion, the other in war, have displayed the most astounding powers over men and circumstances, were Semites. The greatest military authorities have recognised Hannibal as the first general of antiquity, and probably of all

times; and Napoleon I., himself pre-eminent in the art of war, spoke of the son of Barcas in rapturous terms as of a genius above the intrigues of fortune.[1] We shall, however, confine ourselves to a characterisation of Hannibal without drawing upon his Semitic forefathers. Hannibal's personality is little known. There are no Punic writings relating to him, and both the Greek and the Roman writers were too strongly biased to be fair and exhaustive. We know many of his actions; we know very little of his views, motives, sentiments, or ideas. His deeds were so great that we cannot err on the side of exaggeration by ascribing to him great ideas too. As in all men who are rather the consummate exponents of mankind than mere individuals, Hannibal appears to have united the most contradictory qualities. He was an unparalleled general both in strategy and in tactics, in offensive and defensive war; and at the same time an incredibly far-sighted and resourceful diplomatist. Never elated over his marvellous victories, probably because they were marvellous only to others, not to him, he knew of no despondency or rashness in moments of the greatest peril. Patient and torrential; slow and tempestuous; a reader of the military

[1] "Et cet Annibal, le plus audacieux de tous, le plus étonnant peut-être, si hardi, si sûr, si large en toutes choses; qui, à 26 ans conçoit ce qui est à peine concevable, exécute ce qu'on devait tenir pour impossible; qui, renonçant à toute communication avec son pays traverse des peuples ennemis ou inconnus, qu'il faut attaquer et vaincre, escalade les Pyrénées et les Alpes, qu'on croyait insurmontables, et ne descend en Italie qu'en payant de la moitié de son armée la seule acquisition de son champ de bataille, le seul droit de combattre; qui occupe, parcourt et gouverne cette même Italie durant seize ans, met plusieurs fois à deux doigts de sa perte la terrible et redoutable Rome, et ne lâche sa proie que quand on met à profit la leçon qu'il a donnée d'aller le combattre chez lui. Croira-t-on qu'il ne dut sa carrière et tant de grandes actions qu'aux caprices du hasard, et aux faveurs de la fortune? . . ."—*Le Comte de Las Cases, Mémorial de Sainte-Hélène* (Londres, 1823), vol. iv. part 7, p. 180 (November 14, 1816).

character of battle-fields as well as of the character of his opponents; providing for the minutest detail and for the most comprehensive plan; sober in judgment and inspiring in presence, he was adored by his soldiers and even by his family; and in Rome herself there was no one that could compare with him either in moral worth or in military genius. His physical gifts of endurance and wiriness must have been of the most extraordinary character. Such was Hannibal, as we know him.

The way in which he planned to achieve the destruction of the Roman hegemony is so striking and bold that, had he not succeeded in paralysing Rome for over twelve years, all historians would have unhesitatingly traced his failure to the very plan of attack which carried him from victory to victory. For, instead of striking his blows at the southern dominions of Rome, which were the nearest to Carthage, and where his father had already proved the feasibility of attack, Hannibal, against all precedent, made the north of Italy the first seat of the war. It has been urged that a naval aggression of Italy was at that time impossible, the Romans being then supreme in all the waters between Italy, Sardinia, and Spain. There certainly is much strength in that argument. It may, however, be suggested that Hannibal, of whose widespread system of agents and spies we have several startling examples, had first of all secured a complete and accurate knowledge of the state of Italy. He must, therefore, be supposed to have clearly seen the impossibility of supplanting Rome without cutting through the strong chains and ties that held together Rome and her allies. We have seen above what those ties chiefly were. They

owed their amazing strength to the fact that the barbarians of the north of Italy had hitherto been thrust back mainly by the might of Rome. Aiming as he did, not at the destruction of the houses and walls of Rome, but at the dismantling of the whole fabric of Roman hegemony, Hannibal may have thought it indispensable to dislodge first that very basis of Roman rule, and thus subvert it. For, despite the campaigns of 225 B.C. and the following years (see above, p. 138), the danger threatening Italy from the immense hordes of northern barbarians was far from averted. The fault committed (perhaps the attempts made were futile) by Carthage in the first Punic war of leaving the Gauls of modern Lombardy neutral in the contest with Rome, Hannibal wanted to avoid. All the Gallic tribes once roused against Rome, he may have thought, nothing could thwart their victorious leader. He who controlled the barbarians of the north was master of the whole of Italy. Rome's history had incontrovertibly shown that. The basis of the war would, therefore, have to be laid in Liguria and Etruria. Hannibal, who had been preparing an overland campaign for many months, could not have deceived himself about the immense difficulties besetting a passage of the Pyrenees and Alps amongst hostile and suspicious tribes. The losses in soldiers and animals to be sustained on such a venture could not have been underrated by one who had had nine years' experience of Iberian warfare. The chances of losing an equally large number of men in an attempt to attack Italy by sea were certainly less numerous. As a matter of fact Hannibal lost in crossing the two mountain ranges many more soldiers than he would have lost in several naval engagements of the most

serious kind. Yet he firmly clung to his original plan of reaching Italy by the overland route. There can scarcely be a doubt as to the real causes of this determination. His agents must have satisfied him that the Gauls and other tribes of the north of Italy could be relied upon only under the pressure of his own presence amongst them. He found out very soon that even his personal presence was insufficient to give more mettle to the fidgety character, and more loyalty to the perfidious hearts, of the barbarians. Influenced by all these reasons, Hannibal determined on attacking Rome from the north.

The crossing of the Pyrenees was perhaps as difficult as that of the Alps; not on account of the natural obstacles, but owing to the fierce hostility of the obscure tribes inhabiting those parts of Spain and Gaul. Of the army of Carthage that started from Carthagena in May 218 B.C., Hannibal retained only 50,000 foot and some 9000 horse soldiers and elephants; the rest of his army Hannibal left with his brother Hasdrubal for the control of the Carthaginian dominions in Spain. On his march over the Pyrenees, Hannibal had numberless encounters and interviews with the people and the chieftains of the countries he traversed. His adroitness in treating with the barbarians was only equalled by his irresistible vigour in attacking them. Thus he finally reached the Alps. The transit over those noble mountains, where the human heart is chilled into despondency by the fearful grandeur of Nature, has always been held to be one of the chief triumphs of the great Carthaginian. Terrified by the glaciers, abysses, tempests, and deadening night frosts of the Alps; harassed by the ferocious mountaineers; seriously impeded by his vast train of baggage, elephants, and

other encumbrances, Hannibal had to draw upon all the powerful resources of his genius, his indomitable courage, and the unconquerable belief in his star, in order to achieve a feat of valour and prudence which seemed beyond the range of possibility. Indeed, the Romans were, to the last moment, loath to believe in the rumours of Hannibal's descent on Italy by the Alps. When P. Cornelius Scipio's fleet arrived at the mouth of the Rhone, the Roman general learned, to his utter amazement, that Hannibal had already crossed the Rhone, and was crossing the Alps. The hardships sustained by the Carthaginian army must have been awful, for no less than one-half of that army was destroyed by illness, treacherous tribes, still more treacherous Alpine roads, and fatigue.

The route followed by Hannibal in crossing the Alps is not certain; nor has a vast literature, dating from the revival of letters, been able to settle this famous problem satisfactorily. Both the Little St. Bernard Pass and the Mont Genèvre as routes have found very able defenders; so has a number of other passes.[1] However that may have been,

[1] "Between Domo d'Ossola and Barcelonette, there is scarcely a practicable pass of the main chain of the Alps, or a passable route leading towards the main chain, over which some theorist has not carried Hannibal's 6000 cavalry, 37 elephants, and 40,000 infantry. The Simplon, Great St. Bernard, Col de La Seigne and Allée Blanche, Little St. Bernard, Mont Cenis, Genèvre, and Col de Sestrières, Col d'Argentière, and Monte Viso, have all in turn found promoters of their claims."—*Quarterly Review* (1867), vol. cxxiii. p. 191 ("Hannibal's Passage of the Alps"). Of the older writers on Hannibal's passage of the Alps, see a long list in the *Livy* of Ernesti (Augustae Taurin, 1825), tom. iv. pp. 475, etc. Of more modern writers the most remarkable are: Fortia d'Urban, *Dissertation sur le Passage du Rhône et des Alpes* (Paris, 1821), who decides in favour of the Mont Genèvre; Napoleon I. and J. L. Laranza, *Hist. crit. du Passage d. Alpes p. Annib.* (Paris, 1826), were in favour of the Mont Cenis. Dean Cramer and G. L. Wickham, *Dissertation on the Passage of Hannibal over the Alps* (Lond. 1820), were for the Little St. Bernard. On the opinions of other English writers see *Quarterly Review*, *l.c.* A very able and lucid statement in favour of the Mont Genèvre has been made by

Hannibal finally achieved his end and found himself in the beautiful plains of Lombardy. Had Scipio attacked him forthwith, and before his utterly exhausted soldiers could rally, Hannibal's plans would have most probably been frustrated at the very outset. Scipio omitted to do that, and so afforded Hannibal ample time to let his soldiers recuperate their overtaxed strength, to parley with the Gauls, and take cognisance of the country. The first battle between the Carthaginian and Roman armies was on the river Ticinus. Hannibal's genius immediately seized the strategical weakness of his opponent, and completely defeated him (218 B.C.). Then Consul Tiberius Sempronius Longus, who had meanwhile been in Sicily, where the Carthaginians had likewise commenced to attack the Romans, was summoned to the north. Hannibal quickly gauged the man. Seizing upon the reckless impetuosity of the consul, he enticed him into a strategically premature battle near the Trebbia, another tributary of the Po. The Romans under Sempronius left their camp without having breakfasted, waded through the ice-cold Trebbia, received the full blast of rain and snow, and were utterly routed; a corps of 10,000 Romans alone breaking through the enemy, and saving itself in the fortified town of Placentia (218 B.C.). Hannibal's men, too, suffered great losses, especially through illness caused by the fearful weather, and all his elephants, except one, succumbed to the inclemency of a severe

the late Prof. C. Neumann, in his posthumous *Das Zeitalter der punischen Kriege* (Breslau, 1883), pp. 281-305; his view is of course opposed by H. Hesselbarth, *Hist.-Kritische Untersuchungen*, etc. (Halle, 1889), pp. 28, etc. See also the excellent work of M. Perrin (Colonel d'Artill.), *Marche d'Annibal des Pyrénées au Pô*, 1883; Osiander, Wilh., *Der Hannibalweg* (1900); and Colin, *Annibal en Gaule* (1904).

winter. The two battles had rendered Hannibal master of northern Italy, but not of its people. The disheartening fickleness of the Gauls at once convinced Hannibal that his relations with the barbarians would never be those of trustworthy alliance. He could not count upon them, and, reversing his original policy, he did everything to ingratiate his cause with the Italic confederates of Rome. The Roman captives he held in strict captivity; the Italic captives he caused to be set free without any ransom. Nor did he indulge in tarrying over his two victories. At Rome, the news of the battles on the Ticinus and Trebbia did not, it would appear, produce much apprehension. The Romans were accustomed to occasional defeats. Hannibal, on the other hand, knew very well that he had as yet made no more than a felicitous start. In the year 217 B.C., C. Flaminius was one of the consuls, and Hannibal carefully gathered all necessary information about the consul. Flaminius owed his election almost exclusively to his having helped the passage of a law proposed by the *tribunus plebis* Q. Claudius, according to which the senators were prohibited from carrying on the great commerce, which was beginning to ruin agriculture generally, and the small landowners in particular. The Romans had, in forbidding *commercium* between their Italic allies (see p. 24), caused a fall in the value of landed estates. Romans alone could buy such estates in any part of Italy, and thus the subsequent bane of Italy, the *latifundia*, began already to sap the vitality of the commoners of Rome. The law of Claudius, and hence Flaminius, its partisan, became very popular with the lower classes, but the upper classes hated Flaminius as their worst enemy. Hannibal concluded that the consul

would naturally be anxious to silence his powerful opponents by a victory over the Carthaginians. On this desire Hannibal built up his plan. He had, no doubt, learned to esteem the tactical excellences of a Roman army; but he had just as undoubtedly seen their shortcomings in the strategical arrangements of battles. If other consuls had proved deficient in that respect, Flaminius was sure to accept battle wherever and howsoever it was offered. Hannibal took up an almost unassailable position on the banks of Lake Trasimenus, and Flaminius ran headlong into the trap. A fearful massacre ensued; 15,000 Romans were killed, amongst them Flaminius, and 15,000 captives were sent into close captivity by the victorious Barcide. Rome was terror-stricken by the fatal news, and a few Roman matrons are said to have died with joy on seeing their returning sons, of whom they had already despaired. In the absence of a consul, the *comitia centuriata* appointed a *prodictator* (they having no constitutional right to appoint a *dictator* proper). Q. Fabius Maximus, an old patrician, was elected. The choice of that man is characteristic. The Romans, at no time very brilliant, were unable to match genius like Hannibal's. All that they could oppose to the profound strategy of the Carthaginian, who won battles before he fought them, was the shrewd peasant-craft of an old burgher. Shrewdness is the *esprit* of the unrefined. Fabius felt the superiority of the Punic hero. Instead, therefore, of exposing his army to an open contest, he dogged Hannibal closely in a mood of vague expectation. Hannibal meanwhile left Etruria, and, avoiding Rome, repaired towards the regions south of Rome. His victory had been great; the fruits

thereof poor. While in Spain, he cherished the belief that by several victories over the Romans he would easily detach the allies of Rome. In this he was disappointed. Many of Rome's allies hated her cordially; but very few either loved or trusted Carthage. Rome had so frequently proved her fortitude in the midst of great calamities, that more than Hannibal's early successes were requisite to sever the allies from their stern mistress. It may be asked why Hannibal did not, in 217 B.C., fall upon Rome herself. This, too, it would seem, was owing to his lack of allies. His army, after the battle on Lake Trasimenus, was sorely weakened; in his numerous Gallic recruits he could place no reliance; the allies had not yet deserted Rome. Moreover, Hannibal, like Napoleon, did not care greatly for gaining his points by tiresome sieges. He thus first marched through and devastated Umbria and Picenum; then, crossing the Apennines, appeared before Capua, and finally repaired to Apulia, after having duped Fabius, who had contrived to entrap Hannibal's army near Casilinum (modern Capua). In Apulia, Marcus Minucius, the deputy dictator (see p. 149), scored a few advantages over Hannibal, but had in the end a very narrow escape through the timely arrival of Fabius. The new consuls were Aemilius Paullus, a noble-minded patrician, victor in the second Illyrian war of 219 B.C., and C. Terentius Varro, a plebeian upstart, conceited and overbearing, the head of the party disgusted with the agonising "pusillanimity" of old Fabius, the *Cunctator*. Aemilius, who seems to have had a full knowledge of the crushing superiority of Hannibal's genius, desired to avoid a decisive encounter as long as possible. In vain did Hannibal employ at first every

means to induce the enemy to engage in an untimely battle. Finally, Terentius could no longer stand the galling taunts cleverly thrown out by Hannibal, and the battle took place near Cannae, on the river Aufidus (June?), 216 B.C. The Romans had two camps, one on the right, the other on the left side of the river; their army, consisting of over 87,000 men, foot and horse, was at least twice as strong as that of Hannibal. The terrain, it is true, was very favourable to the chief Punic arm, the cavalry. The Romans fought like heroes, and were slaughtered like sheep. 45,000 Roman foot and 3000 horse at least fell on that terrible day; but probably the number of the slain was no less than 70,000. Aemilius and his proconsul Servilius, the two quaestors, 29 military tribunes, 80 actual or prospective senators, were amongst the fallen. Over 10,000 Romans were taken captive, and only a few thousand, amongst them Varro, managed to escape to Venusia. The whole army was thus almost annihilated. Hannibal's loss did not exceed 6000 men, two-thirds of whom were Gauls. The misery of the Romans had reached its lowest ebb. There was scarcely a family in Rome and the Latin cities but was stricken by the loss of a father or a son. And the dart of misfortune sank even deeper into the very entrails of the Roman commonwealth. For the terrible news of Cannae had no sooner spread over Italy than many of the allies of Rome threw up their allegiance to the ill-fated city and became allies of Hannibal. Thus Rome lost not only a great number of her men, but the system, which might have guaranteed the life of the survivors, was shattered to pieces. The Samnites (except the Pentri), the Hirpini, the Lucani, the Picentini, and the Bruttii, joined Hannibal.

The Latin colonies alone, together with some Greek cities in Southern Italy, remained loyal to the cause of Rome. Then Capua, the second city of Italy, surrendered to Hannibal; and Philip V. of Macedon made a treaty, defensive and offensive, with the victor of Cannae. Even the Sardinians offered him allegiance; but they were soon brought to their senses by T. Manlius Torquatus. Hiero II., king of Syracuse, and the staunch friend of the Romans, died soon after Cannae, and his grandson Hieronymus was too young and too dissolute to keep up the wise policy of Hiero. The Romans thus lost their very valuable Sicilian friend too. At one point alone did their historical fortune not desert them: in Spain. Hannibal, who was far too keen-sighted to ignore the superior organisation of the Roman league, and the very doubtful value of his Macedonian or Syracusan ally, placed his second main point of leverage in Spain. He told his brother Hasdrubal to cross over by the Alps, join him, and so crush Rome between a northern and a southern army. The leagues with Macedon and others were meant rather to forestall the Romans from forming a compact with Philip and other possible foes of Carthage. Everything, therefore, depended on Hasdrubal's success in Spain. But, of the Barcides, Hannibal seemed to have absorbed all the success that the gods bestow on one family. Hasdrubal, as clever, persevering, and resourceful as Hannibal could wish him to be, was nevertheless continually worsted by the brothers Cnaeus and Publius Scipio; and about the time when Hannibal prostrated the Romans at Cannae, the Scipios routed Hasdrubal's army near the Ebro, and thus impeded his passage of the Alps. The main assistance that Hannibal could rely upon was

thus withdrawn from underneath his feet. The Carthaginian navy, it appears, could not regain its ancient sway over the Tyrrhenian coasts, and Hannibal's Italic and Macedonian allies were far from efficient. The Romans, rallying from the fearful blow with all the sublime manliness that raised them to the magnitude of ideal heroism, soon created other armies, recruiting part of them from amongst the slaves; and thus Hannibal could not pursue his victory. He preferred to stay at Capua. The story of his rough soldiers having succumbed to the refinements and the effeminating allurements of Capua is scarcely worth refuting. A general of Hannibal's mettle would certainly not tolerate the relaxation of military discipline in an army over which he had the most absolute control. He himself was callous to Greek blandishments, although fully imbued with Greek culture. The evil that poisoned his vast enterprise was the inefficiency of his allies, and —Spain. That enigmatic country has, in the course of history, been the cause of the undoing of two unparalleled heroes—of Hannibal and of Napoleon I. —without being able to maintain its own power over Europe, under Charles V. and Philip II. Doomed to inglorious decay herself, Spain was the cause of doom to others. From 215 B.C. to 211 B.C., Hannibal did not place any further victories to his credit, but his power in South Italy went on increasing. He took several important cities in Campania (especially Casilinum) in 215 B.C. However, he suffered a few reverses at the hands of Marcus Marcellus and Tiberius Sempronius Gracchus both in Campania and in Apulia in the same year, and was finally compelled to assume a defensive attitude. The

change in Hannibal's strategy was owing chiefly to the failure of all assistance on which he had relied. Hieronymus of Syracuse had been assassinated, and the people of Syracuse, plunging from one extreme to the other, finally fell a prey to two Carthaginians of Greek parentage, Hippocrates and Epicydes, who accomplished their plan of making Syracuse an ally of Carthage. Marcellus was sent to besiege and chastise Syracuse. The siege of that large and well-fortified place was most difficult. The Syracusans, although many of them countenanced Rome, offered a resistance that was rendered insurmountable by the genius of the greatest of Greek mathematicians, Archimedes. He, the creator of the abstract science of hydrostatics and general mechanics, was equally prolific in schemes for the practical application of his theories. His inexhaustible ingenuity devised engine after engine for the destruction of the Roman artillery-works and vessels. And such was the dread of his ever-new and fatal machines that the Roman legionary fled screaming at the mere sight of a beam or bar looming over the walls of Syracuse. There can be no doubt at present about the veracity of the famous story of the compound burning mirrors of Archimedes, by which he set on fire Roman vessels from a considerable distance.[1] For over two years

[1] The story of the burning mirrors used by Archimedes has given rise to a very considerable literature; see the bibliography in J. A. Fabricius' *Bibl. Graeca* (ed. Harles.), tom. iv. pp. 183, etc., and in *Œuvres d'Archimède*, transl. by F. Peyrard (Paris, 1807). It has been denied, partly because Polybius, Livy, and Plutarch do not mention it in their reports about the siege of Syracuse, partly on account of its feasibility, which was denied by opticists like Kepler, Cartesius, Sir Isaac Newton, and others. However, the great Buffon and others, particularly M. Peyrard himself (see pp. 543-568 *op. cit.*), proved the feasibility by way of experiment; and at present there is nothing to prevent our accepting the story as true. The silence of Polybius, Livy, and Plutarch is outweighed by the statements of Dion Cassius (see Zonaras,

the old sage defended the city almost single-handed against the army and navy of Marcellus, a very able general and a highly-cultured man to boot. At last Marcellus, who had already taken Epipolae, the western part of the city, took the rest by surprise and treachery, and Archimedes was brutally felled by a Roman soldier, who ignored Marcellus' command to save the life of the immortal Syracusan. "*Noli tangere circulos meos*" were, it is said, the last words of the mathematician, brooding over his figures, to the entering Roman. The scene enacted in the lonely study of the thinker is a sombre and, alas! but too true illustration of one of the elegiac teachings of history. Archimedes at Syracuse, and Hannibal in the mountains of Southern Italy, were fighting simultaneously the heart-rending fight of genius against Fortune. They were both equally successful, and equally shorn of the fruits of their labours by the brutality of adverse circumstances. For Fortune hates genius; perhaps because it is itself a species of genius.

During the siege of Syracuse, Hannibal's cause lost ground in Spain, where the Scipios continued to advance the sphere of Roman influence; and in Macedon, where Philip suffered defeat at Apollonia, at the hands of M. Valerius Laevinus (214 B.C.). The following year did not alter the face of affairs in Italy or Spain. In Africa, Syphax, a chieftain of the tribes west of Carthage, and Rome's ally, was defeated by Hasdrubal, Hannibal's brother, and Masinissa, the gallant Numidian prince and friend of

Annal. lib. ix. 4, ed. Ruderus), Diodorus Siculus (almost a contemporary of Livy; see Tzetzes, *Chil.* ii. Hist. 35), and other ancient writers quoted in Tzetzes.

Carthage. The year 212 B.C. brought the whole of South Italy into the power of Hannibal, except the citadel of Tarentum, which was still held by a Roman garrison; and the praetor Cn. Fulvius Flaccus was completely defeated by Hannibal near Herdonea. In 211 B.C., finally, Hasdrubal and other Punic generals not only defeated the Scipios in a battle, where both Roman generals found their deaths, but also restored the old limits of Carthaginian dominion in Spain. In the same year Hannibal, in order to divert the Romans from Capua, which they had obstinately besieged for the last two years, appeared suddenly before the very walls of Rome. "*Hannibal ante portas!*" Terror fairly benumbed the inhabitants of the city. The danger, however, disappeared as quickly as it had come.[1] Hannibal, like Pyrrhus, withdrew for reasons that are not at all clear. The siege of Capua was brought to an end, and the Romans wreaked terrible vengeance on the Capuans. Eight-and-twenty senators of the doomed commonwealth, despairing of everything, had on one of the last days of the siege met for the last time at a symposium, after which they all poisoned themselves. The Romans had fifty-three other officers and magistrates executed, hundreds of citizens sold into slavery, their goods confiscated, and the city divested of all rights as a corporation. Hannibal was unable to help Capua in time; the city had been forced to capitulate from famine and factious dissensions. Capua's fall was a fatal blow to Hannibal's prestige in Italy. It was high time that the Blind Goddess reversed

[1] The reports of Livy and Polybius regarding Hannibal's sudden appearance and stay before Rome are in hopeless contradiction; hence the meagre statement in the text.

in 211 B.C. her gifts; for this time Hannibal lost in Italy, and the Romans in Spain (see above).

The year 210 B.C. again proved the vast superiority of Hannibal as a general, the proconsul Cn. Fulvius Centumalus being utterly routed by him in the (second) battle of Herdonea. Marcellus, however, secured some advantages over Hannibal in the same year. In Sicily, on the other hand, the cause of Carthage, which evidently hinged on Hannibal alone, lost much ground by the treachery of Muttines, its Carthaginian defender, who, being badly treated by Hanno, avenged himself on Carthage by the surrender of Agrigentum. The whole of Sicily was now again placed under Roman rule. In Spain, P. Scipio, the son of one of the Scipios who fell in Spain (above, p. 156), though only twenty-seven years old, took Carthagena (209 B.C.), whereby he gained a very great advantage over the Carthaginians in the Iberian peninsula. Even the Latin confederates began to murmur against the burdens of the interminable war, and twelve of them distinctly stated that they were unable to continue further. The Roman Senate now (209 B.C.) had recourse to the sums paid at each town emancipation, which, since 357 B.C., had been deposited as money to be used only as a last resource. It amounted to £180,000. Hannibal had several undecisive encounters with Marcellus; and the old Cunctator took Tarentum by treachery in 209 B.C. Young Scipio continued to be successful in Spain, and finally defeated Hasdrubal at Baecula, 208 B.C. The terrible goddess reiterated her demoniac gifts of 216 B.C. and 211 B.C., setting off against the victories of Scipio in Spain the death of Marcellus, who fell during a reconnoitring expedition in 208 B.C. New

victories of Hannibal, whom the Romans were absolutely unable to match, although ten years of warfare with him might have taught them how to meet his strategy, finally encouraged Hasdrubal to cross the Alps, and this he was able to do, despite Scipio's victories. For the young and ardent Roman had, by concentrating himself mainly in South-Eastern Spain, unduly neglected the true policy of preventing Hasdrubal from joining Hannibal.

Now both sons of the indomitable Hamilcar were in Italy, the one in the north, the other in Apulia. The war in Italy, after eleven years of fearful suspense and misery, broke forth more furiously than ever. Everything depended on the junction of the two Carthaginian armies. If Hannibal and Hasdrubal had met, the fate of the Roman commonwealth would have been sealed. The two consuls sent against the Barcides were Marcus Livius Salinator and Caius Nero. The latter dogged Hannibal in Apulia; the former went to meet Hasdrubal, who had quickly marched into Cispadania, and was largely befriended and countenanced by the barbarians of the north of Italy. Hannibal was anxiously waiting for news from his heroic brother, whose route he did not know. Hasdrubal sent a messenger with a letter explaining his movements, and assigning the place of meeting. This letter fell into the hands of Nero's sentinels; and the consul at once left the camp with 7000 picked men, joined Livius by means of forced marches, met Hasdrubal, outmanœuvred the Carthaginian, and compelled him reluctantly to engage in a battle on the Metaurus river, near Sena Gallica, 207 B.C., where the two consuls defeated Hasdrubal, who finally courted and found death

in the battle. The Romans, savage with joy and forgetful of the noble way in which Hannibal had treated the corpses of Aemilius, Sempronius, and Marcellus, cut off Hasdrubal's head and threw it into the camp of his brother. The inanimate head revealed to the son of Barcas that all was lost. His allies were useless; his brother dead. He repaired to the land of the Bruttii, abandoning the rest of his Italian conquests. There he still remained for four years, and the Romans had neither the power nor the address to beard the lion in his Bruttian den. In his war against Rome he destroyed far over 200 Italian towns, and wrought incalculable harm to Italy.[1] On leaving Italy (203 B.C.), he left in the temple of Hera Lacinia, at Crotona, a tablet recording all his deeds. Carthage, closely encircled by the Romans, asked for his help. The Roman Senate, chiefly at the suggestion and instance of Publius Cornelius Scipio, had, in 204, sent a fleet with 30,000 soldiers to Africa, under the command of Scipio. The great Cornelian, a most refined and cultivated youth of charming manners, noble heart, and incredible good fortune, severely harassed the Carthaginians. The conditions of peace offered by him to the people of Carthage were fair; yet the Carthaginian war-party, now emboldened by the presence of the hero of Cannae, insisted on the verdict of a battle. The two generals had a personal meeting. Hannibal pleaded for better conditions of peace, reminding Scipio of the treacherousness of fortune. The Roman trusted to his star, and met and defeated "dire Hannibal" near Zama, probably in the spring of 202 B.C. This ended the second Punic war, and also the political

[1] Appian, *Pun.* 63, 134.

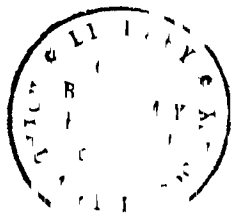
independence of Carthage, which not only lost her extra-African dominions, but was obliged to agree to an annual tribute to Rome of over £48,000 a year for a period of fifty years, and to acquiesce in being prohibited from carrying on war outside Africa, and in being obliged to obtain the consent of Rome if she wished to wage wars in Africa itself. Hannibal calmly accepted the verdict of the gods. Just as his soldiers are said to have never murmured against the fearful strain he imposed upon them, so he himself endured with serene composure the formidable irony of Fate, which suffered bare accidents and inferior men to triumph over the highest type of genius, that of sublime character wedded to creative intellect. He is said to have attempted to reorganise the constitution of Carthage, but his fellow-citizens soon fell foul of his reforms, and forced him to flee to Antiochus (195 B.C.).

The issue of the second Punic, or, as the Romans called it, Hannibal's war, is not one upon which mankind may congratulate itself. It damaged many a country, especially Spain, for centuries. It filled the Romans with the most ineradicable and noxious belief in their divine vocation for universal rule, which in the end brought about their decadence. It upset the then international balance, under a fair adjustment of which alone polities can prosper. It finally nipped in the bud a wholesome blending of oriental and western elements of thought and sentiment, the belated occurrence of which in subsequent centuries has profoundly damaged some of the most sacred interests of mankind.

Much, very much, regarding that great war has been transmitted to us in a shape so mutilated or

curtailed that some of its most important features, especially of the last five years, are quite obscure to us. Nor will they ever be rescued from obscurity unless some elaborate Punic reports should be discovered and deciphered. It is not altogether improbable that careful excavations near the Capo delle Colonne, not far from modern Cotrone, might yield the most unexpected finds; perhaps Hannibal's table itself, which, according to Livy, was written in Punic and Greek, and of colossal dimensions. Of the gorgeous temple of Juno, once standing on that spot, there is still a solitary column left.[1]

[1] See the beautiful work of the Abbé Richard de Saint-Non, *Voyage pittor. de Naples et de Sicile* (Paris, 1782, etc., fol.), tome iii. p. 105.



BOOK V

THE EXPANSION OF ROME IN THE EASTERN HALF OF THE MEDITERRANEAN

GEOGRAPHICALLY, and still more politically, the countries round the Mediterranean are divided into two very homogeneous groups; one consisting of the peninsula of Italy and its counterpoise Carthage and Spain, the other of the peninsula of Macedon and Greece with its counterpoise Egypt and Asia Minor. By the beginning of the historic period the north of both of the peninsulas was inhabited by barbarians, the south by Hellenes and Italic nations; and as Carthage was the Phoenician rival of Rome, so were Egypt and the Phoenicians the non-Hellenic rivals of Greece. From the considerations stated above (p. 138) it is quite evident, that the hegemony of the central State in the peninsula of the Haemus ought to have been logically just as natural as the hegemony of the Roman State was in Italy. That central State was Macedonia. There has been much controversy about the *ethnic* origin of the Macedonians. Otfried Müller declared them to be of non-Hellenic origin;[1] so did Flathe;[2] O. Abel, on the other hand, staunchly upheld their Hellenic *ethnos*.[3] We will not tarry over these purely

[1] O. Müller, *Ueber d. Wohnsitze . . . u. d. ält. Gesch. d. maked. Volkes*, (1825).

[2] L. Flathe, *Geschichte Macedoniens*, etc. (Leipsic, 1832), vol. i. pp. 12, etc.

[3] Otto Abel, *Makedonien vor König Philipp* (Leipsic, 1847), pp. 25, etc.,

philological queries; we do not believe in the all-importance of ethnical forces. What is evidently of more moment than the Hellenic or mixed ethnical character of the Macedonians is the historical function which devolved upon them owing to their geographical situation. In historical times, that is from the sixth and fifth centuries B.C., they were surrounded by ferocious and aggressive barbarians, such as the Thracians in the east, the powerful tribe of the Maedi in the north-east, the Bryges in the north-west, the Agrianes in the west, and the Illyrians, Dardani, and other savage and populous marauding tribes in the north and west. The inroads of those terrible warriors, whose numbers were increased by Gauls and other western tribes, were very numerous, and very dangerous.[1] The Macedonians, in rebutting or staying the inroads of those nations, fulfilled the same historical task that the Romans had achieved in Italy. And but for one circumstance they would have no doubt played a *rôle* similar to that of the Romans early in the fifth century: that was the campaigns victoriously led by the Hellenes proper against the gigantic power of the Persians. For the hegemony of States like Macedonia rests on their situation. Through the Persian invasion, however, the scene of conflict between Hellenes and non-Hellenes was laid, not in Macedonia, but in Greece. The victories of the Greeks, therefore, raised them, instead of the Macedonians, to the dignity and power of a bulwark for civilisation during the fifth and part of the fourth

particularly pp. 91-138. Compare also Fick (Kuhn's *Zeitschr. f. vgleich. Sprachf.* xxii. 193, etc.), who defends the Hellenic character of the Macedonian language, with Meyer (*N. Jahrb. f. Philol.* 1875, p. 186), who denies it.

[1] See especially Polyb. ii. 35, 9, and xxvi. 9, 3, as to the fear in which the Gauls were held.

century B.C. When the danger of a Persian invasion was passed, Macedonia, strongly united by the common danger of repelling the incessant inroads of the barbarians, became a monarchy of very efficient organisation. This unity of the Macedonian territory gave the subjects of Philip II. an immense superiority over the distracted and isolated Greek city-states. And no sooner had the father of Alexander the Great amplified the large territory of his kingdom, and ensured its safety, than the Macedonian hegemony in Greece became as inevitable as was Roman supremacy in Italy. That such a hegemony was historically inherent in some one central State of the peninsula may be clearly seen from the history of Jason of Pherae, in the third decade of the fourth century B.C., who, after reducing Thessaly to one monarchy, set about with utmost address to gain the hegemony over Greece, and was only prevented from carrying out his vast plans by being assassinated.

For a full understanding of the Macedonian rule in Greece, we ought in the first place to possess a clear insight into the constitution of the Macedonian kingdom. Unfortunately, however, the information to be gathered from the ancient writers on that vital point is so meagre, that we are unable to say anything definite on the Macedonian constitution in the sixth or fifth century, and very little on that of the fourth.[1] It seems to have been a limited monarchy. One thing alone is certain: the Macedonians of all classes, tribes, or districts of the realm clung with tenacious loyalty to their dynasty, and thus stood

[1] The most complete statement on the Macedonian constitution, in which the ἑταῖροι, or nobles (?), played a very important, and the army a considerable, part, is in O. Abel's *op. cit.* pp. 123-138.

out in sharp contrast to the disunited and faction-tossed Greeks. Under Philip II. and Alexander III. Greece fell, as we have seen, completely under the sway of Macedonia. Had Egypt been able to maintain its independence against Alexander, it would have most likely become to Macedonia what Carthage was to Rome. However, Egypt, after Alexander's death, was ruled by Macedonians; and the play of international balance of power, which was the mainspring in the history of the *Diadochi* (see vol. i.), prevented Egypt from being the arbiter of the possession of the eastern half of the Mediterranean in a manner similar to that in which the Punic wars decided on the possession of the western half. The Macedonian hegemony in Greece had therefore free scope, and would have no doubt made of the Haemus peninsula what Rome had made of Italy, had not the Romans, in the second Punic war, arrived in Greece. This completely upset the original factors, and shifted the scene of war into regions different from those in which the geographical situation of the Macedo-Graecian peninsula would have placed them. Before relating the events that led to the downfall of both Macedonia and Greece, we shall endeavour to obtain at least a clear idea of the constitution of Greece, no reliable knowledge of the constitution of Macedonia being available.

Greece, by the beginning of the second Punic war, seemed to have learned at last that isolated city-states could no longer prevent the doom of Hellas. We read of two great city-leagues assuming a distinct and vigorous political personality; and after having seen how the Latin league saved Italy from the most formidable of conquerors, we might expect the Greek

leagues to be similarly successful against foes very much less terrible than Hannibal. It is customary to speak of the Hellas of the third century B.C. as of a hopelessly decadent and disintegrated country, the conquest of which could offer no particular difficulty. However, the physical character of Greece, together with the great number of able and noble men still adorning that century, permit us to doubt the alleged facility of conquest. In fact, if Rome could rally from the fearful defeats she suffered at the hands of the Carthaginians, Greece could certainly have recovered from defeats none of which was as severe as those of the second Punic war. Here, too, our information from Greek and Roman writers is sadly incomplete. It seems, however, probable that Hellas by the end of the third century was smarting under two evils that were unknown to Rome in the second Punic war. One was a dearth of men, and the other an awful crisis in finance. Statistics of the population of Greece at the various periods of her history have scarcely been attempted; in fact, the only important work based on conscientious study and on broad scientific principles is that of J. Beloch, whose statements have, however, met with considerable opposition.[1] This much is certain, that the enormous conquests of Alexander the Great acted upon the Hellenic world in a manner similar to the discovery, eighteen centuries later, of America on the western Europeans. An immense exodus of Hellenes in search of commerce or military employment ensued,

[1] Julius Beloch, *Die Bevölkerung der griechisch-römischen Welt* (Leipsic, 1886). He says in the preface: "*Wohl fehlt es nicht an Einzelforschungen; aber noch niemals ist der Versuch gemacht worden, die Bevölkerungsbewegung auf einem ausgedehnten Gebiete und während e. längeren Zeitraums . . . zur Darstellung zu bringen.*"

and thus the country was drained of a very considerable part of its inhabitants. Asia Minor, Coelesyria, and all the minor realms of West-Central Asia as far as Bactria, Arachosia, and Gedrosia, near the Indus, were swarming with Greeks.[1] The conquests of Alexander had also another and equally incisive influence on Greece. By the foundation of Alexandria in Egypt, and Antiochia in Syria, situate as these new cities were in the very midst of all continental and maritime commerce between the East and the West, the inter-Hellenic commerce (of the magnitude of which we can hardly form too strong an opinion, and which, from 450 B.C. to 335 B.C., was centred in Athens) began now to gravitate towards the East, first to Rhodes, then chiefly to Alexandria and Antiochia. In the first half of the third century B.C. those eastern centres of commerce drained Greece of her money, as the rest of Hellenic Asia drained her of her men. This totally altered the commercial and financial condition of Greece, which even deteriorated after the defeat of Carthage in the second Punic war, Alexandria being relieved thereby of her western rival, and Greece reduced to a fearful state of financial misery. The story of King Agis III. (IV.) of Sparta (244-43—241-40 B.C.), who nobly desired to regenerate the Spartan State by a redistribution of estates, two-fifths of which had fallen into the hands of women, and the rest into the property of a few families, gives us a lamentable picture of one of the mightiest city-states in Greece. One of his successors, Cleomenes III., the worthy son of a still nobler mother, did

[1] The decline in the population of Greece is also mentioned and dwelt upon by Polybius, xxxvii. 9; it does not there suit his purpose to mention the connection between Alexander's conquest and the diminution of the population of Hellas.

everything that extraordinary genius coupled with perseverance could do for the amelioration of the economic condition of his people. He likewise failed.

Such was, or at any rate commenced to be, the condition of Hellas, when the successors of Alexander the Great on the throne of Macedonia strove to maintain and aggrandise their hegemony over the city-states of Northern and Southern Greece. The reign of Antigonus Gonatas, son of Demetrius Poliorcetes, was most gravely embarrassed, at the very outset, by the terrible invasion of Celts or Gauls under Brennus, 278-77 B.C., who, although defeated near Delphi by the Aetolians, Phocians, and Locrians, and at Lysimachia by Antigonus, successfully maintained one realm of their own on both sides of the Balkan, and another in Asia Minor, where they were called Galati. The Celtic invasion helped Antigonus in the recovery of Macedonia, as Ptolemaeus Ceraunus, who had robbed him of it, was killed in a battle against the Celts. The Athenians, assisted by Egypt, Sparta, Epirus, and others, vainly tried to shake off the Macedonian yoke by means of the so-called "Chremonidean" war (266 ?-263 ? B.C.). Macedonian garrisons were again placed in Greek cities, and although Antigonus granted Athens her liberty (255 B.C. ?), this only revealed the insignificance of Athens at that period. The cause of Greece would have been lost, and Athens, Thebes, Megalopolis, Corinth, or Sparta reduced to the obscurity of Tarentum, Locri, Crotona, or Rhegium in Italy at that period, had not the old Hellenic spirit of heroism and political genius been revived by peoples of Hellas, that had hitherto been either unknown, or only recognised as mere obscure dwellers in the land.

The Aetolians, a ferocious race of robbers and habitual mercenaries, and the Achaeans, a pastoral tribe, consolidated, in the reign of Antigonus Gonatas, previous beginnings of a confederacy of various clans and city-states into two strongly organised leagues. One was the Aetolian League; the other the Achaean.

The Aetolian League (*κοινὸν τῶν Αἰτωλῶν*, first mentioned in 330 B.C.[1]) grew from a small power, comprising only a few clans in and near Aetolia, to a very important union of city-states and tribes extending over the western and central part of Hellas proper, and over the whole of the west of the Peloponnesus.[2] Even islands in the Ionian Sea and cities in the Propontis belonged to it. It was a confederation, not a confederacy. The citizens belonging to it were Aetolians, not Thermonians or Amphissans; even as the citizens of the republic in North America are American citizens, not citizens of Ohio or Illinois. Coins, laws about common matters, and decrees of the Senate were all of a federal nature, and obligatory on all. Each city being a member of the league, kept its municipal and internal independence intact—at least in theory. The head of the league was the *strategos*,

[1] Diodor. *Bibl.* xix. 66; xx. 20. Compare Marcel Dubois, *Les ligues étolienne et achéenne* (forming the 40th *fascicule* of the *Bibl. d. écoles franç. d'Athènes et de Rome*, Paris, 1885), pp. 22, etc.

[2] See the map, giving the historical stages of the growth of the league, in M. Dubois, *op. cit.* p. 44, and Prof. Gustav Gilbert, *Handb. d. griech. Staatsalterth.* (Leipsic, 1885) vol. ii. pp. 22, etc., who fixes those stages chronologically as follows:—The Western Locrians and the Delphians (about 290 B.C.) seem to have been the first to join the league, probably by compulsion. Doris seems to have at that time been already a member. After the Celtic invasion the league was joined by Phocis and the Eastern Locrians. By 266 B.C., portions of Acarnania, and in 245 B.C. Boeotia, were made to become members; however, Boeotia broke loose from it soon after. By 229 B.C., Southern Thessalia was incorporated. The Peloponnesian allies (Elis, and the Arcadian towns of Phigalia, Tegea, Mantinea, and Orchomenus) were secured by the middle of the third century B.C.

elected annually by the General Assembly. His functions dealt chiefly with military and foreign affairs; he was also president of the Assembly. The second chief official of the confederation was the *hipparchas*, or commander of the famous Aetolian cavalry. A federal secretary (γραμματεύς) and treasurer (ταμίας) discharged the usual functions of their offices. The executive of the league was mainly in the hands of the federal council (σύνεδροι, βουλευταί, or ἀπόκλητοι, as Polybius calls them[1]), each federal member being represented by a proportionate number of councillors. The General Assembly (ἡ κοινὴ τῶν Αἰτωλῶν σύνοδος), consisting of all Aetolians bound for military service, met annually at Thermon, occasionally at other places, such as Naupactus, Heraclea, etc. It elected the officials, decreed laws and treaties, and levied the requisite contingents. The late Professor Freeman has pointed out the great analogy between the Aetolian League and the old Swiss Confederation, in that both had "Confederate States, Allied States, Protected States, Districts subject to the League as a whole, Districts subject to this or that Canton, Districts subject to two or more Cantons in partnership"; whereas confederations like the United States of America "admit no members to the League except on terms of perfect equality."[2] It

[1] Prof. Freeman (*History of Fed. Gov.* 2nd ed. pp. 262, 263) does not identify the ἀπόκλητοι of Polybius with the σύνεδροι of the inscriptions; nor does Mr. J. B. Bury, the editor of Freeman's work, correct that. Their identity, however, is at present generally accepted. See Gilbert, *op. cit.* vol. ii. p. 28, note 4; and G. Busolt, *Griech. St. u. R. Alt.* (in Iwan Müller's *Handb. d. kluss. Altwiss.*) 2nd ed. (Munich, 1892) p. 369; Pauly-Wissowa, *Realenc.* (1893), Aetolia, p. 1119.

[2] E. A. Freeman, *History of Federal Government in Greece and Italy*, (London, 1893), p. 273. The evidences, scattered over Prof. Freeman's work, are chiefly: Polyb. iv. 5, 4 (Eleians as allies of the league); iv. 6, 11 (Messenians); iv. 6. 8 (the island Cephallenia); especially Boeckh, *Corp. Inscr.*

need scarcely be mentioned that our knowledge of the constitution of the Aetolian League is very scant.

The Achaean cities, originally twelve, but later on ten in number (Patrae, Dyme, Pharae, Tritaea, Leontium, Aegium, Aegeira, Pellene, Bura, Caryneia; Olenus and Helice having been engulfed by the sea before the battle of Leuctra, 371 B.C.[1]), formed a league, mainly for religious purposes,[2] long before the Peloponnesian war. Subsequently they became subject, first to the Spartan, then to the Theban hegemony, until probably Alexander the Great dissolved their league altogether (324 B.C.). Down to 280 B.C. the Achaeans were controlled either by Macedonian garrisons, or by tyrants countenanced by Macedonia. In that year, however, the four first-named towns united into the second Achaean League, which was soon joined by the other six cities, after they had rid themselves of the foreign garrisons and tyrants. The new league was, like that of the Aetolians, a confederation, not a confederacy; and the individual members were "Achaeans," adopting the laws, coinage, and "metrical" system of the league, although the municipal autonomy of each city was fully recognised. Inter-city differences were decided by a third city-state. Originally there were two *strategi*, but from about 255 B.C. only one *strategos* at the head of the league; between the election and the inauguration of the *strategos* there was, as in the United States of America, an interval. On the death of the president, his predecessor (not the vice-president, as in

Graec., Nos. 2350, 2351, and 2352, where Naupactus (member of the league) confers her freedom on Ceos, a city alien to the league.

[1] See Polybius, ii. 41.

[2] Their common place of worship was the Amarion, sacred to Zeus, Athena, and Aphrodite, at Aegium.

America) held office for the rest of the official term. The *strategos* and the ten *damiorgoi* formed the highest council, that alone could submit Bills to the Assembly, or treat with foreign powers. The *strategos* and the *hipparchos* had the chief military command too. The Assembly was twofold: ordinary and extraordinary. The former consisted of all Achaeans past their thirtieth year, and was therefore a primary assembly. The latter seems to have consisted of citizens of a higher census-class. It is not quite clear whether the Achaeans had a Senate (*βουλή*) proper. The meetings of the assemblies were held, since 189 B.C., anywhere in Achaea; voting went not per head, but per city, larger cities being divided into several voting districts.[1] The single cities paid regular contributions (*εἰσφοραί*) to the federal treasury. The army consisted of federal troops and mercenaries, and there was also a federal administration of justice. With regard to the inner constitution of the Achaean League our knowledge is also very fragmentary; and the two leagues have, as of old, occasioned endless strife and dispute in modern scholarly camps.[2]

No saner idea could have occurred to the fertile minds of the Greeks than that of relieving the old isolated city-polities by the creation of a strong league of cities. All Greece united into one well-organised league would have faced Macedonians, Romans, and Syrians alike with equal vigour. Unfortunately for Hellas, there were two leagues instead of one; and thus the new principle, instead of saving Greece, only helped to precipitate its downfall. The old jealous

[1] R. Weil, *Zeitschrift f. Num.* vol. ix. (1882) pp. 222, etc.

[2] The analogies between the United States and the Achaean League have been pointed out by Prof. Freeman, *l.c.* pp. 243, etc.

rivalries between single city-states were now reiterated by the two leagues. Indeed, the fate of Greece was inevitable; it was the fate of Sicily. Surrounded by strongly united monarchies, each of which coveted the possession of cultured Greece, the doomed country was torn to shreds by the conflicting flatteries heaped upon it, and by the wars waged against its various commonwealths by foreign powers. When Egypt extended a helping hand, Macedon threatened war; and *vice versa*. And when either of the two monarchies remained quiescent in order to calm the Greeks, Syria came to the fore with fatal claims. To these great powers finally were added the Romans. How could the consequence have been any other than that which awaited and reached Sicily after Hiero's death? The downfall of Greece, therefore, was caused, very much less by the moral decadence of the Hellenes, than by the statical pressure of international politics in the third century B.C. To ascribe the decay of a nation to nothing else than internal disease is to ascribe the death of simoom-stricken travellers to an inner failing of their constitutions. The tempests of history have swept away many more nations than has the worm of inner decay or moral failing. There was many a high-minded, exceedingly gifted, and noble Greek statesman in the latter half of the third century B.C. Surely Aratus, Philopoemen, Agis IV., and Cleomenes III. were fully the peers in moral worth of Quintus Fabius, Aemilius Paullus, Terentius Varro, or Scipio. But Rome had no Macedonia weighing upon her shoulders; nor was there any aggressive monarchy, like that of the Seleucides, in the east of Rome. Rome had one foe, one dangerous foe alone—Carthage. Rome was, in

the latter half of the third century, where Greece had been at the beginning of the fifth century B.C., when she was threatened by one foe alone, by the Persians. Had the Hellas of 250-200 B.C. been attacked by Egypt, and Egypt alone, she would have no doubt ended the war, as Rome did with Carthage. But the very lion will succumb to a pack of wolves.

The real history of the Achaean League commences with Aratus of Sicyon. This extraordinary man, after driving away, without bloodshed, the tyrant of his native town, prevailed upon that rich and splendid city to join the league of the Achaeans (251 B.C.). This forthwith changed the hitherto obscure character of the league. In 245 B.C., Aratus became *strategos*, an office which he held in all seventeen times, and henceforth his sole aim was to rid tyrant-oppressed cities of their oppressors and to unite all the Peloponnesus into one powerful league. In 242 B.C. he freed Corinth, later on Argos, Hermione, Phlius, and lastly (229 B.C.) even Athens, of their respective Macedonian garrisons or tyrants, by ruse, persuasion, and main force. The league now represented a polity of imposing power. Aratus, whose objective clearness of insight was only matched by his absolute integrity, had, almost from the very outset, looked for and found an external point of support in Ptolemy III. of Egypt, who willingly furnished him with money with a view to obstruct the advance of Macedonian influence in Greece. Nothing can raise our opinion of Aratus' statesmanship more strongly than his systematic preference of diplomacy to war. That he was no great general is certain; that on the battlefield the otherwise bold *strategos* was a coward is highly probable; yet while such shortcomings detract

from the biographical interest in the man, they by no means lessen his historical importance. For, in that time, Greece needed diplomacy very much more than tactics in battles, or strategy in war. The powers surrounding Hellas, armed and trained in Hellenic fashion, were too numerous and too powerful to be repelled by merely military efforts. What Greece then needed was union at home, and allies abroad. Both ends could be, and were to a certain extent, achieved by diplomacy, by Aratus. And in this consists his greatness. He acted exactly on the lines of his contemporary Hiero of Syracuse, and with equal success. Hiero's work had no duration, because of the overwhelming power of the Romans; Aratus' work was rendered hopeless, because of the opposition of Sparta, the killjoy of Greece, and of the crushing superiority of Macedonia. Sparta in those days gave another illustration of the distressing evils caused by those whose morals are in advance of their age. The economical and social decadence of Sparta in the first half of the third century B.C. has been already mentioned above. Economically, all the Lacedaemonian estates were in the hands of a few families; socially, the influence of women, always paramount in a state of rough soldiers and emancipated womenfolk, became supreme and degrading. The young and enthusiastic King Agis III. (IV.), 245-241 B.C., ardently desired to restore the discipline and well-being of the past, and for that purpose commenced to introduce the most radical measures. Debts were cancelled, 243 B.C.; the redistribution of wealth was seriously taken in hand; and but for the revolt of the wealthy party, who finally killed the noble king, the reforms, actually carried out by Cleomenes III.

(235?-221 B.C.), might have been made by Agis. Cleomenes III., ideally upright, bold, gifted, and energetic, was the worst example of that class of reformers who, by ruining the Achaean League, ruined Greece. In fact, so great was his mistake that, instead of rhetorically bemoaning the moral decadence of the Hellenes as the chief cause of the downfall of Greece, we should rather bewail that the exceeding virtue and incorruptible purity of men like Cleomenes III. were the prime links in the chain that throttled the fair neck of Hellas. Virtue is not always a virtue. There are times when to follow virtue is to court death. In the times of Cleomenes, the existence of Sparta depended infinitely more on the existence of the other Hellenic States than on the moral purity and well-being of the Spartans. To revive the ideal constitution of Lycurgus was a noble enterprise, but an untimely one, and hence fatal. It bore visibly the marks of female shortsightedness in politics, for it is evident that Cleomenes was won over to his subsequent plans by his beautiful wife Agiatis, the widow of Agis. Cleomenes, in order to break the resistance offered by the wealthy and idle in Sparta to his reforms, wanted some opportune war by which he might gain prestige and power. This the unfortunate idealist gained by availing himself of every occasion of war offered by the very confederation with which, in the real interests of Sparta, he ought to have been on the best of terms.[1] The disastrous mistake was still more accentuated by his unfortunate victories over the

[1] We follow here Phylarchus, as embodied in Plutarch's *Cleomenes*, 3 and 4. See the full discussion of the relative authenticity of the sources as to causes of the "Cleomenian war" in Max Klatt, *Forschungen z. Gesch. d. Achaeisch. Bund.* (Berlin, 1877), pp. 40, etc.

Achaeans, chiefly at Ladocea (226 B.C.), near Megalopolis, and at Dyme (224 ? B.C.).

Cleomenes, strengthened by his victories, both at home and abroad, relentlessly put down all obstruction to his reforms, chiefly the institution of the *ephors*, redistributed the land, adopted *perioeci* into the citizenship of Sparta, and reinstituted the old Lycurgan vigour of education and the custom of common meals. The noble Spartan king, in working all these marvellous changes, won the admiration of the numerous classes of needy and debt-ridden people in Greece, who fondly wished him to come to their respective cities, and there too cancel the debts and redistribute the land. Victor over the armies and the hearts of the Greeks of the Peloponnesus as Cleomenes was, he could not, in the intoxication of success, either appreciate or adopt the policy of Aratus. The Achaean statesman, beaten in the field and deserted by the masses, completely disapproved of the foreign policy of Cleomenes, and most heartily detested his home reforms. Twenty years of close contact with the actual factors of Hellenic politics had convinced him of the utter futility of attempts that differed from his policy of confederation at home and confederacy abroad. Cleomenes, by reviving the old Spartan discipline, also revived all the ancient Spartan prejudices and aversions to confederations. Sparta, as such, could and would never willingly sink down to a mere member of a league. Sparta's policy could aim at nothing else than the supremacy of loosely connected and independent city-states. A confederation was against the most inveterate traditions, customs, and laws of Sparta. Aratus was therefore right in condemning the policy of Cleomenes. But

time pressed, and the victories of Cleomenes made it imperative to come to a definite resolution. From the whole policy of Aratus we might expect him to turn at that juncture to the powerful king of Egypt, Ptolemy III. Evergetes. From the sixth to the eighth decade of the third century B.C., there was no more successful and enlightened king and warrior in the East than Evergetes. Moreover, he had been in constant relations with the Achaean League, and the friend and ally of Aratus. His interest in checking the advance of Macedonia in Greece was identical with that of the league. The sources, however, tell us that Aratus, instead of asking for help of Egypt, turned, if indirectly through the envoys of Megalopolis, to Antigonus Doson, king of Macedon. The motive of this unexpected action on the part of Aratus is far from clear; it was certainly disastrous to the independence of the Greeks. It is very likely that Doson, having secured Caria, then an Egyptian dominion, in Asia Minor,[1] could bring to bear such pressure on Ptolemy, who held nearly the whole of Asia Minor, that the Egyptian king, wishing to save what he actually had, sacrificed the hegemony in Greece, which was only prospective. At any rate, Aratus must have been prompted by very urgent, to us unknown, reasons, to offer to Macedonia the handle of the axe with which to hew down the Hellenic tree of liberty. The details of this most important affair are, however, unattainable for us. The bare fact can be stated alone. Aratus called in Antigonus Doson.

[1] See J. G. Droysen, *Hist. de l'Hellénisme* (Fr. transl., Paris, 1885), vol. iii. pp. 503, etc.; compare also *ib.* p. 454, note 5. Droysen's statement appears highly probable. C. T. Newton, in his *Hist. of Caria* (in the first vol. of his *A Hist. of Discov. at Halicarn., etc.*, London, 1862), p. 69, gives no information on that point.

The Macedonian king came and defeated Cleomenes, who had maintained his position for several years with the assistance of Egypt (now the ally of Sparta), at Sellasia, 221 B.C. Cleomenes fled to Egypt, where he perished ignominiously owing to the ill-treatment of his ignoble host, Ptolemy Philopator. Antigonus now founded a Hellenic league; in other words, he firmly established Macedonian hegemony in Greece. To the Achaean League, as well as to Sparta, were restored their ancient constitution, and in form the Greeks were still independent. But when the Achaean League, indignant at the robberies of the Aetolian League in Messene, made war ("War of the Leagues," 220-217 B.C.) on the latter, the fearful devastations of both parties so enfeebled Greece that it fell nearly completely under Macedonian sway. Philip V., then king of Macedonia, desirous of availing himself of the distressed condition of Rome at that time (Punic Wars), arranged a treaty of peace at the congress of Naupactus (217 B.C.), and thus Hellenic matters were brought to a temporary condition of rest. Aratus was poisoned by Philip's accomplices (213 B.C.); like Cleomenes, he died, indirectly, through his protector.

We shall now try to form an idea of the way in which the Romans first influenced, and finally conquered, the Balkan peninsula and the Eastern kingdoms.

Of the first war between Rome and Macedonia, and its upshot, the Aetolian war of Philip, we have already spoken (p. 155). Before the outbreak of the second war between these two countries, the Achaean League was fortunate enough to place at its head Philopoemen of Megalopolis, for the first time *strategos* in 207 B.C. He was well built, of iron

frame, thoroughly honest and patriotic, a Greek who, by incessant practice and close reading of ethical and military works, had become a model general and exemplary citizen.[1] The victory of Sellasia (see p. 182) was owing chiefly to his strategy and personal valour. He defeated and killed Machanidas, the new tyrant of Sparta, and foe of the league (207 (?) B.C.), and firmly hindered, if he could not entirely repel, Nabis, the successor of Machanidas, who, by freeing the helots and fostering communistic revolts against the rich classes, had raised a *tyrannis* maintained by great cruelty. Finally, the (second) war between Rome and Macedon broke out in 200 B.C. Rome, even had she never thought of assailing the ally of Hannibal, was fairly forced into it. After the death of the wretched Ptolemy IV. Philopator, Philip V. of Macedon and the powerful Antiochus III. of Syria plotted a distribution of the vast Egyptian realm, now ruled over by an orphan child. Antiochus conquered Coelesyria; Philip, from 204 to 200 B.C., fought successfully for the possession of Egyptian dominions on the Ionian coasts of Asia Minor and in Thracia; so that the Rhodians, King Attalus of Pergamum, and the Athenians, all three severely damaged by Philip's success, asked for Roman interference. Rome responded. Philip refused to restore his conquests, and thus Rome declared war against him. Philip possessed in Greece the three "fetters," as he called the fortresses of Corinth, Chalcis, and Demetrias; he

[1] About Philopoemen and his able and, on the whole, noble activity as *strategos* there can be no difference of opinion; and it is refreshing to see that the overbearing Prussian sarcasm (it is certainly not Roman) of Professor Mommsen has not been adopted as adequate criticism by the majority of historians. Compare *Philologus*, vol. xxviii. pp. 135, etc. (1869). Philopoemen is generally styled "the last of the Greeks"; he was certainly one of the best.

moreover had, in spite of his occasional silly atrocities, numerous adherents in Greece, and the mighty Antiochus was his ally. The Romans, on the other hand, were only with considerable difficulty able to win over, first the Aetolian, then the Achaean League; but they succeeded in keeping off Antiochus by ignoring his encroachments on Egyptian dominions. Titus Quinctius Flamininus, the Roman consul, a Philhellene, powerfully aided by his Greek corps, finally defeated Philip in the battle at Cynoscephalae in Thessaly (197 B.C.). Philip, forced to accept peace, restored all his conquests, paid the costs of the war, and handed over his fleet. At the Isthmian games of 196 B.C. the assembled Hellenes, amidst frantic outbursts of joy and glorification, listened to the announcement made by Titus Quinctius Flamininus in the name of the Roman Senate and his own, that henceforth the peoples under Macedonian sway were free.[1] Every trace of Macedonian hegemony was obliterated; the tyrant Nabis was shortly afterwards coerced and thrown back upon Sparta by the Greeks under Roman leadership; and towards the end of 194 B.C. there was neither a Roman nor any other foreign body of soldiers left in Hellas. The policy of Rome

[1] The precise text of the announcement as given in Polybius (xviii. 46) is: "... the following peoples [are declared] free, without garrison, or tribute, in full enjoyment of the laws of their respective countries: the Corinthians, Phocians, Locrians, Euboeans, Achaeans of Phthiotis, Magnesians, Thessalians, Perrhaebians" (E. S. Shuckburgh's transl., where Phiotis, instead of Phthiotis, is printed). Flamininus, therefore, did not even venture to assume the attitude of a liberator of *all Greece*. All the peoples mentioned in the text of Polybius were north of the central part of Hellas proper (except Corinth), and hence the Peloponnesus, that is, the major portion of Greece, was not even mentioned by the Roman, who well knew that he owed his victory mainly to the dash and address of the Aetolians. Too much capital has been made of the boisterous joy of the excitable Hellenes, who indulged in similar frantic applause at the appearance of Philopoemen at the Nemean games, as they had done with Themistocles at the Olympian, Pausanias, viii. cap. 50.

towards Greece has been lauded and execrated with equal zeal. For one set of scholars, Rome was perfidious, fiendishly cunning, and bent on nothing but the ruin of Greece by means of fostering, under the guise of justice, all the disintegrating elements in Greece. For the other set, Rome had sincere admiration and sympathy for the country of art and culture, and never seriously meant to chastise the pigmies assembled at Aegium or Thermon, who played at parliament or war. One opinion is as inadequate as the other. A State like Rome after the Punic war could not produce, nor did it need, a Cesare Borgia. The Romans were powerful enough to dispense with the diabolical tricks of the Italian princelets of the fifteenth century A.D. But, on the other hand, it is ridiculous to treat the Hellenes of Aratus' and Philopoemen's time as so many children, whose games were good-naturedly and condescendingly watched by the Romans. The Greeks sank under in the first half of the second century B.C., but surely they did not sink because the Romans crushed them. They sank because neither the Macedonians, nor the Egyptians, nor the Seleucides were able to uphold the international balance of power. The defeat of the Macedonians (at Cynoscephalae), and that of Antiochus III., were, however, mainly due to Greek valour and strategy. Antiochus, who was lord of Asia Minor, followed the call of the Aetolian League, which was dissatisfied with the state of affairs as arranged by Flamininus. The Achaeans, who had, under Philopoemen, again defeated their old foe Nabis of Sparta (192 B.C.), now made Sparta join their league. Entirely misconstruing the drift of affairs, the Achaean League declared war against

Antiochus as soon as he landed in Greece. Thereby the Romans, who without the aid of the Greeks would have had a very much more difficult position, had little or nothing to do, as Antiochus came to Greece with only a small army. The consul, M'. Acilius Glabrio, effectively aided by the address of the military tribune, M. Porcius Cato, easily beat the demoralised and totally insufficient army of Antiochus at Thermopylae (191 B.C.). Macedon was then the ally of Rome. The next year (190 B.C.) the consul, L. Scipio (or rather his brother Publius, the general *de facto*), joining his allies, Eumenes, king of Pergamum (successor to Attalus since 197 B.C.), the Rhodians and others, succeeded, after some minor defeats and victories, in annihilating the fleet of Antiochus off Myonnesus, between Ephesus and Teos. This decisive victory too, as well as the following one, was due chiefly to the superior skill in naval warfare of the Rhodians, and the inestimable services of Philip. Antiochus now played his last card in the continental battle near Magnesia. However, there too he was defeated, the strategical arrangement of his army corps having been so bad as to become the object of censure and ridicule of all military critics. In the ensuing peace (189 B.C.) he was forced to surrender Asia Minor as far as the Taurus mountains, pay a fine of 15,000 talents, and promise to keep no more than ten decked vessels. The Rhodians and Eumenes obtained most of Antiochus's dominions; and many a city on the coast regained its liberty. The allies of the king, chiefly the Galati, were coerced by Cn. Manlius Vulso. About the same time the Aetolians were, chiefly by the aid of Philip of Macedon, forced to recognise the supremacy of Rome.

Antiochus died in 187 B.C., and was succeeded by Seleucus. In 183 B.C., Philopoemen died by poison, having been taken captive in a campaign against obstreperous allies; Hannibal died, likewise by taking poison, in a town of King Prusias of Bithynia, to whom he had fled after having served King Antiochus; and finally, Publius Scipio, morally poisoned by the ingratitude of his fellow-citizens, died at Liternum, his country-seat. Philip too did not very long enjoy his now somewhat aggrandised realm; the humiliations inflicted upon him by the Romans, the intrigues of Perseus, one of his sons, against his brother Demetrius, sorely embittered the last years of his chequered life; it was one full of weakness, sin, and grandeur. He died in 179 B.C. So disappeared all the principal actors of the ever-important drama of 218-179 B.C. It was a generation, the deeds, errors, and successes of which have no doubt had more effect on the destinies of the world than perhaps those of any other generation. The error of the Greeks, especially the Achaeans, and of Philip, are plain and beyond dispute. They ought not to have countenanced the Romans. We are so accustomed to see the history of those unparalleled years with the eyes of Polybius, the great Achaean partisan of the Romans, that, as a rule, we generally disapprove of aspirations such as those of the Aetolians who opposed Rome with all their might. However, Polybius, incomparably great as an historian, was certainly wrong as a politician. The Greece that bore a Philopoemen, and Polybius's own father, Lycortas, was, by the beginning of the second century B.C., not yet compelled to implore Roman patronage. Rome then was not yet the Rome of a hundred

years later. He, of course, who attributes Rome's success mostly to the inborn superiority of the Roman nationality (Professor Mommsen too holds that very philological and very unphilosophical opinion), cannot but wonder why those "*Graeculi*" did not forthwith give themselves up to the great men who, only a few years before, could not defeat Hannibal in the course of a campaign of fifteen years' duration. The Greeks had far too much sense to yield to such theories. The invincibility of the Romans was *then* far from an axiom. The truth is, the Greeks had partly not insight enough to aid the right party, and partly no fortune. We cannot sufficiently insist on the fact that causes, external to the deeds and misdeeds of the Hellenes, brought about the downfall of the nation of Miltiades, Themistocles, and Pericles. Their fall was not like that of the Poles or the Venetians in the eighteenth century A.D. They were crushed from without; they did not wither from within. Perhaps the only internal cause that precipitated their decay was the rapid diminution of the population of Hellas consequent upon emigration. It was the same cause that has bereft modern Ireland of all marked success. Ireland having lost, from 1841 to 1880, no less than 3,764,042, mostly vigorous young folk, of a population counting, in 1841, 8,196,597, her population, in 1881, sank to 5,159,839.[1]

The final act of the tragedy was not yet acted. Perseus, the king of Macedon, sedulously tried and largely succeeded in gaining the goodwill of the Hellenes, who were speedily split into Roman and

[1] From Munster no less than 60·6 per cent of the population emigrated from May 1, 1851, to December 31, 1880.—*Encyclopaedia Britannica* (ninth edition), *s.v.* vol. xiii. pp. 237, 238.

Macedonian parties. The preponderance of the latter became more and more evident; and the accumulated wealth, together with the fine army and navy of the talented Perseus, instilled confidence in his policy. The Romans finally, in 171 B.C., seizing on a slight pretext, opened the campaign against Perseus. The king was, for nearly two years, remarkably successful, the Romans suffering various defeats at his hands. Genthius, king of the Illyrians, his ally, helped him in the north-west; and even the Bastarnae, a powerful tribe on the Danube, offered him assistance. The arrival of the consul L. Aemilius Paullus, son of the victim of Cannae, however, terminated within a fortnight the campaign in favour of Rome. At the battle of Pydna (June 22, 168 B.C.), Perseus was in the end completely beaten. He fled, but shortly after that surrendered himself to Aemilius. At the triumph of the latter in Rome, the wretched king was seen amidst the booty and captives of the gorgeous pageant. So ended the Macedonian realm. Perseus died in Roman captivity; his son as a scribe in Italy. Genthius was rapidly crushed. Macedonia was permitted to retain its autonomy, but it was broken up into four mutually independent and isolated districts. Illyria was disintegrated in a similar way, being divided into three districts. One-half of the annual tribute formerly paid to Perseus was now claimed by the Romans. All the friends and allies of Perseus were relentlessly chastised. About 1000 Achaeans, amongst them Polybius, were summoned to Rome, to be kept in captivity in Italy for seventeen years. In Epirus, Aemilius destroyed seventy towns and sold 150,000 freemen into slavery. Even Rhodes, otherwise Roman in its leanings, was

deprived of its possessions in Asia Minor, for having offered to intermediate between Perseus and Rome. The gold secured by Aemilius, who himself was inaccessible to bribes, was so immense that the *tributum* paid by Roman citizens was cancelled altogether. So great was the effect of the battle of Pydna, that C. Popilius Laenas dared to bully Antiochus Epiphanes, king of Syria and victor over the Egyptians, out of any further attempt on Egypt. The power of the Romans in the East was thenceforth growing, not by their own direct efforts, but by the disintegration of the realms of Syria and Egypt. The history of that process is wearisome and little instructive. Suffice it to say that instead of the two great kingdoms of the elder Ptolemies and the Seleucides, a great number of small, and therefore weakly, principalities and commonwealths had arisen, which, by their very disconnectedness, could form no real obstacle to Roman aggrandisement. Thus the supremacy of Rome in the eastern half of the Mediterranean was consummated. During the wars in the East the Romans were frequently, if not constantly, molested by inroads and revolts of the "barbarians." In 192 and 191 B.C. the Romans finally repelled the Boians; in 177 B.C. the Istri; and about that time the Ligurians, who offered very considerable resistance. The whole of the north of Italy was colonised (Bononia was founded in 189 B.C., Parma in 183 B.C., etc.) and made accessible, by roads, to Roman commerce. The tribes in Spain likewise revolted, and were with the utmost difficulty coerced. M. Porcius Cato (195 B.C.), L. Aemilius Paullus (191-189 B.C.), and Tib. Sempronius Gracchus (179-178 B.C.) were among the successful Roman

generals in Spain. By far the greater number of the two praetors who governed, a year each, the two provinces into which Spain was, in 197 B.C., divided, were so lacking in honesty, humanity, and tact, that the Iberians constantly rebelled; until finally, in 154 B.C., they declared war, that caused Rome the very gravest difficulties for twenty years.

Having settled the conflicts of the East by defeating the conflicting parties with one another's arms, the Romans now turned to Carthage, whose commercial prosperity had become intolerable to the large and influential class of Roman merchants and enterprising capitalists. Masinissa, the artful king of Numidia, whose cunning and cultured genius had aided the Romans so effectively in the second Punic war, willingly procured them the pretext, carefully avoided by the party of the comfort-loving Carthaginians, of ruining the ancient city of Queen Dido. M. Porcius Cato, it is said, wound up every one of his speeches by saying: "*Ceterum censeo Carthaginem delendam esse*"; and the opinion of the old rough martinet found a lively echo in many a Roman breast. Masinissa's encroachments on the dominion of Carthage were, despite all Carthaginian remonstrances, continued; and lastly, 149 B.C., an army was sent with the deliberate purpose of destroying Carthage. So commenced the third Punic war. Hasdrubal, however, kept the Romans at bay for two years; and since the Carthaginians could not obtain of the Romans the right to dwell in their city even at the price of the most humiliating sacrifices, they determined rather to perish than to surrender. P. Cornelius Scipio Aemilianus, the adopted son of L. Aemilius Paullus, the victor of Pydna, took

Carthage, but only after the most desperate resistance on the part of the "effeminate" Carthaginians. Hasdrubal's wife, on seeing her husband yield to famine and implore Scipio's favour, threw first her children and then herself into the flames. The Senate bade Scipio destroy the city totally. For seventeen days and nights the burning houses of Carthage, many of them six stories high, were painting on the sky the ignominy perpetrated by the silly victors. Scipio himself stood aghast at his own work. So ended the town of the Barcides, and with it perished many a virtual change that might have driven the destinies of mankind into channels far more profitable than were the routes adopted by history in the first twelve centuries of our era.

One Andriscus, pretending to be Perseus' son, won the hearts of the Macedonians, made them revolt from Rome, beat the praetor P. Juventius, but was overcome by Q. Caecilius Metellus, aided by Attalus of Pergamum in 148 B.C. Then Macedonia, together with Southern Illyria, Epirus, and Thessalia, became a Roman province, the two ends of which, Dyrrhachium and Thessalonice, were connected by the *Via Egnatia*.

At the same time, the Achaean League, smarting under the consciousness of being only a Roman vassal, although the Romans cannot be reproached with undue interference with the disputes and wrangles constantly brought before the Senate by the Hellenes, gathered its forces under Critolaus and Diaeus, and persuaded Phocis, Euboea, Locris, and Boeotia to make common cause with it. Metellus, however, on whom good fortune smiled nearly all the days of his life, beat Critolaus at Scarphea in 146 B.C.,

and Diaeus at Leucopetra, 146 B.C. His successor, L. Mummius, consummated his work, and moreover committed the foolish crime of destroying gorgeous Corinth, which had probably sinned by being a commercial rival to Rome. A commission of ten senators now dissolved the league, isolating its members from one another. The league, however, revived. In the work of pacification, Polybius, the historian, assisted in many ways the cause of the Hellenes.

During the time of the third Punic and the Achaean war, the Romans were engaged in the Spanish campaign mentioned above, which broke out in 154 B.C. The chief Iberian tribes waging that formidable war (for which Rome could scarcely obtain any soldiers, so much was it dreaded) were the Celtiberians, the Lusitanians, the Titthi, and the Belli, the powerful Aravacae, and the Vaccaeans (151 B.C.). Viriathus, a Lusitanian, was so signally successful against several Roman generals that Rome made formal peace with him in 141 B.C. The heroic man met his end by being assassinated at the command of false Q. Servilius Caepio, who had invited him to a parley, 139 B.C. The Aravacae continued the campaign, in which the Romans again suffered signal defeats, under Q. Pompeius (141-140 B.C.) and C. Hostilius Mancinus (137 B.C.). Finally, Scipio Aemilianus was sent to the seat of war. He forthwith saw the cause of all the evil in the utter demoralisation and lawlessness of the Roman legionaries. With the utmost severity he restored the indispensable discipline, and then surrounded Numantia, the head-quarters of some 8000 Iberians. The siege lasted fifteen months before the few survivors of the besieged heroes, weakened

by the horrors of dire famine, surrendered in 133 B.C. In the same year King Attalus III. of Pergamum died, bequeathing his realm to Rome. It had, however, first to be conquered, and this was done, with the aid of neighbouring princes, by M. Perpenna in 130 B.C. The Romans organised it under the name of "Asia" into a province, leaving the financial administration to *publicani*. Egypt had many years ago recognised the supremacy of Rome, and so, by the end of the seventh decade of the second century B.C., Rome practically controlled all the countries round the Mediterranean. This, the most incisive fact of universal history, was accomplished in ninety years; and, if we deduct the time of the second Punic war, in seventy years. The short time Rome required to accomplish this shows that her rapid success was due to the long-standing enfeeblement of the countries she brought under her sway. For, as practically available truth consists of one-half error, so practical success of one nation is obtained mostly by the failure of others.

From the times of Polybius to the present age it has been a standing question whether the Romans owed their unique success to their own valour and virtue, or to good fortune. The great torso of Polybius, as no doubt the entire work did, tries to bear out the first assumption; and most historians have acquiesced, more or less, in the judgment of the great Megalopolitan. Yet it cannot be too frequently, nor too strongly, urged that at present, after having watched the rise of the British Empire, that is, of a realm as colossal in its way as was that of Rome, we must abstain from harping too frequently on the merits of the Romans alone. Both cases bear

irrecusable witness to the fact that empires like the Roman or the British owe as much, if not more, to the opportune failings of the countries conquered as to the irrepressible gifts of the conquerors. In the case of the British Empire we know all the requisite data, and can therefore adduce the evidence. In the case of the Romans we are in quite a different position. We possess no elaborate records of the countries conquered from 200 to 130 B.C., written by natives of those countries, except Greece and a few Hellenic towns. Deprived, as we are, of the other and the more important portion of historical sources, how shall we be able to form a satisfactory idea about the success of Rome? Given the failing vitality of all the Mediterranean countries at the commencement of the second century B.C., we can readily see the necessity of Rome growing to be their mistress. But how and why Macedonia, Syria, Egypt, etc., came to be so disorganised that the loss of one single battle (at Pydna or at Magnesia, see above) sufficed to uproot their very existence, is incomprehensible. Surely the defeat of the Romans at Cannae was immeasurably more disastrous than that of Perseus at Pydna.[1] The latter forthwith despaired of everything; the Romans did not. In fact, what nation has been beaten more frequently than the Romans? In the end, it is true, they contrived to control, if not to conquer, all ancient nations. But was there, from the pillars of Hercules to the mountains of Parthia, one single nation or State that did not, at least several times, defeat the

[1] Old battle-worn Aemilius himself avowed subsequently that he had trembled when the Macedonian phalanx bore down with a fearful charge on his corps.

Romans? Not one. Since, therefore, defeats do not necessarily engender ruin, how shall we understand the total collapse of Macedon in consequence of one single defeat, a defeat coming after a series of Macedonian victories, and sustained only after the Romans had nearly lost the battle?

All such questions are of the very life of real history. They have only one drawback; they cannot be solved, owing to the partial or entire loss of Hellenic sources treating of the history of Macedonia, Hellas, the Persian empire, or the time of the *Diadochi*, such as the writings of Ctesias, Ephorus, Theopompus, Deimon, Anaximenes of Lampsacus, Callisthenes of Olynthus, Marsyas of Pella, Chares of Mytilene, Hieronymus of Cardia, Duris of Samos, Nymphis of Heraclea, Demetrius of Byzantium, Heracleides of Cyme, Diyllus of Athens, Phylarchus, Menodotus of Perinthus, Neanthes of Cyzicos, Aratus of Sicyon (the great *strategos* of the Achaean League, see above p. 177); the numerous writers of memoirs (*ὑπομνήματα*);[1] the Atthides or writers on Attica (mainly Philochorus), collected subsequently into a digest by Istros of Cyrene; finally, the numerous local historians, such as Menaichmos, the historian of Sicyon; Deinias, the historian of Argos; Aristoteles, of Euboea; Zenon and Antisthenes, of Rhodes; Sosibios, of Lacedaemon, etc. etc. In the face of these wide gaps, who can venture to reconstrue Roman history in all its necessary details? We certainly do not pretend to do so. All that we contend is, that one can fairly discern the general drift of events; the innumerable details and inner

[1] Ernst Koepke, *De hypomnematis Graecis* (two parts, the first of which is, however, not available; the second part, Brandenburg, 1863). Fragments of other memoirs see in C. Müller, *Fragm. Hist. Graec.* iii. 186-189.

working of the historical factors in that great drama cannot be known; and he who thinks he understands it by indulging in cheap laudations of the Romans, and still cheaper reviling of other ancient nations, is as unjust to those nations as he is poor as an historian. As yet we can understand Roman institutions much more readily than Roman conquests. We can, alas! no longer hear the voices of the unrecorded non-Romans in antiquity, but we can still avow and live up to the principle: *audiatur et altera pars!*

It was stated above that the Romans did not become the lords of classical Europe and the Orient because they were urged or prompted by a deliberate ambition towards that great end. All that we have so far attempted to investigate shows us, on the contrary, that Rome could not help realising the end that she originally neither excogitated nor hankered after. When, therefore, the Romans, in 130 B.C., found themselves the controlling power of the Mediterranean countries, they did not know at all how to act by that vast complex of realms and cities. So unexpected and unpremeditated was the result, that means of perpetuating it in a wise or orderly manner were completely wanting in Rome. Far from introducing any sensible system of ruling, governing, or assimilating the multitude of peoples in dread of, or depending on, Rome, the Senate of the Eternal City let things go as they might. In fact, we should be totally out of touch with historical facts if we were to consider the Roman Empire in 130 B.C. as anything like the British Empire of our days, or even the Empire of Alexander the Great. The ascendancy of Rome over Europe in 130 B.C. was much more like that of a power controlling the international balance between States than

that of an actually governing conqueror. Innumerable cities and States were still enjoying perfect autonomy, and the Roman "provinces" were left almost exclusively to the aimless exploiting of the governors. In other words, the Mediterranean countries had finally reached a stage of equilibrium, the centre of which was located in Rome. They were not at dead rest, like a stone weighed down by a pillar; they were in equilibrium. They were where Europe was from 1715 to 1740; or from 1815 to 1848. For nearly twenty years there was within the precincts of Roman influence no serious war at all. The revolt of the slaves in Sicily (135-132 B.C.) was quelled, chiefly by P. Rupilius. In 125 B.C. the Massilians asked for help against the Salluvians, a Gallic tribe, who were finally repulsed by the proconsul C. Sextius, founder of Aquae Sextiae (122 B.C.), in which year Quintus, the son of Caecilius Metellus Macedonicus, surnamed Balearicus, subjected the pirates of the Baleares. In 122 B.C. and 121 B.C. the Allobrogi and Arverni were repulsed. With the exception of these third-rate campaigns, Rome and the Roman Empire was accorded a peace of nearly twenty years, 130-111 B.C. And now the evils of peace began to show themselves, lacerating the very entrails of the realm, as for the preceding three generations the evils of war had done. For who can shut his eyes to the evident truth crying aloud in every period of history that Peace, while everybody is religiously wishing and declaring for it, can be borne equably by no nation for more than a generation or so? As soon as peace reigns, people turn their thoughts, that have hitherto hung with anxious curiosity on the stirring and absorbing spectacles of war, to their home affairs. Accustomed as they have

been to dramatic and captivating events, the calm of peace is irritating to them; and in that mood, more prone to critical analysis than in any other, they soon inquire into, dissect, query, doubt, and finally defy and uproot the institutions which they had hitherto held practicable, beneficent, nay, sacred and irreproachable. In looking around themselves with the morbidity of bored discontent, they unfailingly arrive at the conclusion that the whole fabric of the commonwealth is in an unwholesome condition, foul, rotten, and tottering. The dumb sentiment of the masses rapidly finds its mouthpiece in some captivating, daring reformer. The social question is born. In our own times (1870-1894 A.D.) the long period of peace at first gave birth to Socialism. That movement was, however, too insipid for the vast masses of peace-sick people. Accordingly, Antisemitism was brought into existence and hailed with delight. When that failed to tickle the palate of the peace-ridden demos, a still spicier dish was served them—Anarchism. And so Europe will go on, passing from one doctrinaire system to another, for several more years to come, until the balance of the European powers will be shaken by some serious event, military, religious, or political. That was precisely the state of Rome in the eighth and ninth decade of the second century B.C. After the colossal efforts of the preceding three generations, the sudden standstill in the campaigns and foreign enterprises of Rome roused all the subversive powers of social discontent into boisterous life. It was claimed that the state, both economical and moral, nay, even the physical condition of the Roman people, was on the verge of ruin. The old *fides*, or integrity of the Romans, was said to

have died out; oaths were no longer sacred; luxury was carried to excess; the small land-proprietor, the main prop of the State, was reduced to penury; the wealth of Rome was in the hands of a few families of the patrician and equestrian orders; and Rome, unless a radical reform were brought to remedy matters, would soon be a doomed and monstrously unbalanced State bereft of all importance. All this and similar socialistic criticisms were levelled at the patricians, the Senate, and at certain individuals. That the ennui-stricken malcontents did hold such language is in the highest degree probable. In times of peace, malcontents of all ages and of all nations have expressed themselves very much in the same way; and our modern socialists are giving us plentiful specimens of the same description. But that those criticisms were all founded on fact, and that they were based on actually existing evils of such fearful magnitude, is exceedingly unlikely. At any rate, it cannot be proved to have been so in the latter half of the second century B.C. The sources of Roman history at present available go far to prove the above state of decadence in the second or third decade of the *first* century B.C. As to the second century B.C., unless we stretch the meaning of our texts in an altogether illegitimate manner, we cannot prove that fearful decadence.[1] It

[1] Passages as that in Plautus, *Rudens*, v. 3, 17, etc., about the laxity of oaths, are more than counterbalanced by Plautus, *Bacch.* iv. 9, 107, 117, 119, 123; *Asin.* i. 1, 109, etc.; *Mostell.* iv. 3, 29; *Capt.* ii. 3, 79; or Terentius, *Ad.* iii. 3, 88; *Hecyra*, iii. 3, 42; *Andr.* iii. 5, 6. Compare Posidonius (ap. *Athen. Deipn.* vi. 107), and the hymn of the Chalcidians in praise of Roman πίστις in Plutarch, *Flamininus*, ch. 16. The following passages contain the names of numerous patricians of the second century B.C. who bore their poverty with dignity: Cicero, *de leg. agr.* ii. 24, 64 (the Fabricii Luscini, the Atilii Calatini, and the Manlii Acidini); Varro, *R. R.* iii. 16, 2 (the praetor Appius Claudius Pulcher); Aurel. Vict. *vir. ill.* 72, 1 (the consul M. Aemilius Scaurus, whose father was a poor coal-merchant). Hence there were poor

can be proved historically that the Romans secured vast treasures in the course of their wars from 207 B.C. to 167 B.C. According to Livy, the value of the coined money alone, apart from the innumerable gems, paintings, precious vases, etc., and the incalculable private predations of the generals, paid into the exchequer of Rome during those forty years, amounted to £10,000,000 in nominal value, and certainly four times that amount in market value.[1] It is equally certain that this sudden influx of immense wealth considerably altered the economical, and hence also the moral condition of the Romans. If, however, one adduces the *Senatusconsultum de Bacchanalibus* of the year 186 B.C. as an instance of the profound corruption of Roman society in the first half of the second century, in which the existence of a society of nefarious Roman matrons was then revealed;[2] or if one alleges the great number of poisoners discovered in 179 B.C.;[3] one should also adduce the identical case of Roman nefarious women in 331 B.C.,[4] and the dissolute morals of Roman matrons discovered and

people amongst the patricians as well as amongst the lower orders. Finally, one need but read the 56th chapter of the sixth book of Polybius, who wrote his history in old age and who lived certainly beyond the sixth decade of the second century B.C., to get the most absolute conviction of the sterling ethical worth of the Romans even in the latter half of that century. The strong diminution in the population of the Volscian coast (from Antium to Circeii and Terracina, Pliny, *H. N.* iii. 5, 59; or III. *sectio* 9), of Samnium and Lucania (Strabo, v. 4, 11; vi. 1, 2), Apulia (Vitruvius, i. 4, 12), etc., likewise cannot be proved to date from the second century B.C.

[1] Antonin Macé, in his very valuable work on the agrarian laws (*Des Lois Agraires chez les Romains*, Paris, 1846, p. 26, note 2, etc.), has collected all the passages in Livy recording the treasures secured by Roman generals during the above period. The passages are: 28, 9; 28, 38; 31, 20; 31, 49; 32, 7; 33, 23; 33, 27; 33, 37; 34, 10; 34, 46; 34, 52; 36, 21 and 39; 37, 46; 37, 58; 37, 59; 39, 5; 39, 7; 39, 29; 39, 42; 40, 16; 40, 34; 40, 43; 41, 7; 41, 13; 41, 28; 45, 4; 45, 35-40; 45, 43.

[2] Livy, xxxix. 18.

[3] *Ibid.* xl. 43, 44.

[4] *Ibid.* viii. 18; compare Valer. Max. ii. 5, 3; Orosius, iii. 10.

punished in 295 B.C.,[1] that is, in the hey-day of the *antiqua virtus* of the Romans. The mere collocation of these facts shows us that in such and similar cases we have to do with exceptional occurrences, and not with the outgrowths of a diseased system.

The social reforms introduced during the twenty years of peace are generally viewed in a light different from that shed upon them in the preceding statements. It is said that agrarian and other social reforms had been very frequent in times before 133 B.C., and Tiberius Sempronius Gracchus only revived in that year the law of the tribune, C. Licinius Stolo and his son-in-law, L. Sextius Lateranus, likewise *tribunus plebis*, which was moved in 376 B.C., and passed in 367 B.C.,[2] to the effect, that (*a*) interest already paid on debts should be deducted from the capital, (*b*) that nobody should possess more than 500 *jugera* of the public lands. Even Licinius had his predecessor in Spurius Cassius Viscellinus, who atoned for his attempt to give plebeians a share in the *possessiones* or the public domain with his life, 486 B.C.[3] Nor could the laws of the Gracchi with regard to the abolition of debts lay claim to any novelty. For the *lex Duilia et Maenia* of 357 B.C.,[4] the *Rogatio Tribunicia* of 347 B.C.,[5] the *lex Genucia* of 341 B.C.,[6] the *lex Marcia*[7] (of an uncertain date), the *lex Poetelia* of 313 B.C.,[8] and other legislative measures, had dealt with this point long before the sons of the noble Cornelia, daughter of the victor of Zama, were born.

The laws of Licinius and Sextius have been, as is well known, the subject of a long-standing difference between the historians of Roman law. While Puchta

[1] Livy, x. 31. [2] *Ibid.* vi. 34, 35, 42. [3] *Ibid.* ii. 41.
[4] *Ibid.* vii. 16. [5] *Ibid.* vii. 27. [6] *Ibid.* vii. 42.
[7] Gaius, *Inst.* iv. 23. [8] Varro, *L. L.* vii. 105.

restricts point (*b*) of that law, as given above, to private and not to public lands,[1] Huschke and Rudorff contend that the 500 *jugera* apply to public as well as to private land;[2] the majority of other historians, however, interpret this point, chiefly in consequence of Niebuhr's arguments, as referring to public lands only.[3] In addition to those controversies which affect the agrarian character of the Licinian law very considerably, there have recently been raised objections far stronger and, in effect, far more prejudicial to that law. In fact, Professor Niese has shown that the very existence of an agrarian law of Licinius Stolo is in the highest degree improbable; our knowledge of the date and contents of that pretended law being derived exclusively from Livy, or his contemporaries, whereas the pre-Livian records, based on Posidonius and preserved in Appian and Plutarch, place agrarian laws of the stamp of the Licinian in the first half of the second century, and do not mention anything at all about such a law having been passed in 367 B.C.[3]

From the above it follows that agrarian movements proper, that is, popular demands for a redistribution of the public domain, cannot be conclusively proved to have been of great importance before the fourth or fifth

[1] Puchta, *Institutionen* (5th ed., Leipsic, 1857), vol. i. p. 204.

[2] Philip Eduard Huschke, *Ueber die Stelle des Varro von den Liciniern* (Heidelberg, 1835); A. F Rudorff, *Roem. Rechtsgesch.* (Leipsic, 1857), vol. i. p. 38. The untenability of that view has been shown by J. M. Sundén, *De Lege Licinia de modo agrorum* (Upsala, 1858), whose arguments are conveniently summarised in M. Voigt, *Ueber d. staatsrechtl. Possessio u. d. Ager compascuus* (in *Abhandl. d. philol.-hist. Classe d. Kön. sächsisch. Gesellsch. d. Wiss.* vol. x. Leipsic, 1888), pp. 259, 260. See also A. Macé, *op. cit.* pp. 215, etc., and Niebuhr, *Roem. Gesch.* vol. ii. pp. 149, etc.; vol. iii. pp. 14, etc. (Berlin, 1846).

[3] Benedictus Niese, in *Hermes*, vol. xxiii. (year 1888), pp. 410-423. Compare note on next page about the importance of Posidonius as the historical source of the times of the Gracchi.

decade of the second century B.C. After 133 B.C., on the other hand, they play a most conspicuous part in the history of Rome. For, at that time, Rome had gained a position of almost unshakable authority in her foreign affairs, and consequently the Romans, like all nations before and after, then commenced to turn, with all the ardour and rancour characteristic of social movements, to a reformation of their home affairs. The great leaders of that reform (or revolution, as it is sometimes called) were the Gracchi, the grandsons of that man who, both himself and through his family connections, gave the century from 210 B.C. to 110 B.C. the impress of his mind—P. Cornelius Scipio Africanus. Tiberius Sempronius Gracchus, the elder of the brothers, carried in 133 B.C., as *tribunus plebis*, an agrarian law to the effect that no one should be permitted to possess more than 500 *jugera* of the public domain for himself, and 250 *jugera* more for each of two of his grown sons; the residue of the public domain obtained by that restriction should be given in *possessio* to poor citizens against an annual payment of rent.[1] Tiberius, an enthusiastic doctrinaire, overpowered his dissenting colleague, M. Octavius, by doubtful means; and in his endeavour to combat the aristocratic Senate by favouring the financiers, he

[1] The sources of the history of the Gracchic movements have been closely scrutinised by Nitzsch, Klimke (*Die ältest. Quellen z. Gesch. d. Gracch.*, Königshütte, 1886), and G. Busolt (*Quellenkritische Beitraege zur Gesch. d. röm. Revolutionszeit*, in *Neue Jahrb. f. Philol. u. Paedag.* vol. cxli. year 1890, pp. 321-349, and pp. 405-438). Klimke holds that Diodorus, basing his facts, as Klimke thinks he has, on the annalist, L. Calpurnius Piso Frugi, a contemporary of the Gracchi, is the oldest and most reliable source extant; the primary sources, or the works of Fannius and Tuditanus, having been lost. Busolt, who likewise prefers Diodorus to the other extant sources, considers that he based his facts on Posidonius, who, as a philosopher, statesman, and intimate friend of the leading Romans in the period of the Gracchic movements, deserves the highest credit.

unfortunately exasperated both the wealthy classes, or *optimates*, and his protégés, the common people, the people hating the financiers as well as the Senate; and being deserted by his hitherto numerous followers, he was assassinated, at the age of thirty, by a band of aristocrats led by P. Scipio Nasica. His law was passed nevertheless, but caused endless confusion. It was a homestead law, and in drift and tendency a most beneficial measure. Its execution, however, was beset with endless difficulties. The very primary question as to which land was public and which private was, in a very large number of cases, a very difficult one. And while, in law, the question of restricting a citizen to the possession of 500 *jugera* only seemed simple enough, experience quickly taught the rich how to evade the law, and how to amass vast *latifundia* in the hands of a few possessors. The reforms of Tiberius were advanced to a still more radical stage by his ingenious and eloquent brother Caius, *tribunus plebis* for 123 B.C. He soon saw that the great opponent of all social reforms was the Senate. In order to break the power of that great body of wealthy and powerful statesmen, he carried laws that gave the knights (equestrian order) political rights and social distinctions of their own (see p. 218), and finally succeeded in passing a law, according to which judges were to be taken from amongst the knights. Since, however, the knights were at the same time the largest class of people who hired the collection of revenue, and thus the one in which jobbery and illegal exactions of all sorts were most rife, they became also the most corrupt class of citizens, being at once the culprits and the judges of their own abuses. To gain over the common people, Caius

passed a *lex frumentaria*, in virtue of which each householder received a certain monthly measure of cereals at a mere nominal price. This tended to, and actually brought about, the growth of a lazy metropolitan mob, whose lawlessness proved subsequently one of the chief causes of the downfall of the Republic. Caius, too, renewed agrarian laws, but the price he paid for them was out of proportion to their benefits. In 121 B.C. he fell, like his elder brother, a victim to the wrath of the optimates. It is difficult to do full justice to the Gracchi, our knowledge of that time being very deficient and fragmentary. Yet this much may be stated, that the reforms of Caius especially, which might have suited an absolute monarchy, were highly unsuitable for a free city-state. Such a State rests on the energy of its citizens, and not on the extent of territory or the cleverness of a handful of ruling people. Nothing, however, saps the energy of a people to a greater extent than getting one's bread by charity.

The social movement, mainly started by the lengthy peace, was retarded by new wars. Of those wars, the more picturesque is the Jugurthine war, 111-106 B.C.; the more important, the war against the invading Teutonic peoples. During the war with Jugurtha, prince of the Numidians, the Romans were conducting campaigns in Thracia, against the Scordisci and Triballi,[1] and against Germanic barbarians in the north of Italy. Jugurtha, a very able general and still more capable statesman, had ruthlessly deprived his cousins of their realm, and thereby provoked the wrath of Rome. He defeated the Romans at first; and when Consul Q. Caecilius Metellus,

[1] Livy *Epit.* 65; Eutrop. iv. 27.

subsequently surnamed Numidicus, restored the honour of the Roman legions in 108 and 107 B.C., Jugurtha, trusting more in gold than in iron, contrived, by bribing some senators at Rome, to hold his own for some time; until under, if not by, C. Marius, a plebeian of Arpinum, of uncommonly great military gifts, and the first *homo novus* invested with the consulate for a very long time back,[1] the war was terminated. Jugurtha was extradited by his confederate and father-in-law, Bocchus, prince of the Mauri, now the ally of Rome, and led in chains before the triumphal chariot of Marius (104 B.C.). The proud king, in an apoplexy of fury at that humiliation, became mad. He was thrown into a deep cavity, the "icy bath-chambers" as he said with despondent irony, where his vigorous body writhed for six days in the agony of starvation. At last he was given the *coup de grâce*. The greater part of Numidia was restored to the heirs of Masinissa.

The invasions of the Germanic and Celtic tribes, the most potent of the extraneous factors in the moulding of Roman history, now assumed dimensions of ever-increasing peril. This war, too, as well as nearly all the other wars of Rome, started with Roman defeats. The vast hordes of Cimbri, Ambrones, Teutones, Tigurini, etc., came down from the north-west of Germany, and crushed everything before them. One Roman general after the other was beaten by them, 109, 107, 105 B.C., and in the last-named year three Roman armies were completely annihilated near Arausio, now Orange, near the Rhône river. No less than 80,000 Romans are said to have fallen in that murderous battle. The Romans,

[1] Sallust. *Bell. Jug.* lxiii. and lxxiii.

greater in distress than in victory, would not accept any offers of treating made by the invaders, and Marius, for the second time consul, was sent against them in 104 B.C. During the years 104 and 103 B.C., Marius carefully trained his army, consisting mostly of the poorest classes and of Italic confederates, for warfare against the terribly ferocious Teutons and Celts, who meanwhile ravaged Spain. Finally, in 102 B.C., he met the Teutones and Ambrones at Aquae Sextiae, where he utterly routed them. In the next year he and the proconsul, Q. Lutatius Catulus, defeated the Cimbri near Vercellae. All Italy breathed more freely, and Marius was called the third founder of Rome. During the campaigns of Marius in the north, there was a second servile war in Sicily (103 - 100 B.C.). It likewise began with Roman defeats, and ended with Roman victory. In Spain, too, T. Didius fought successfully against the Celtiberians in 98-97 B.C.

The preceding campaigns, in asserting once more the military superiority of Rome over external foes, only precipitated the outbreak of internal dissensions and revolutions. The jealously guarded oligarchy of the leading Roman families was opposed by the rich equestrian order and by the demos sympathising with the Italic confederates. Roman citizenship had by that time become not a mere right, but an enormous and extremely valuable privilege. All the wars of the second century B.C. having been fought by the Campanians, Samnites, Marsi, Apulians, etc., in short by all the Italic nations, in the name of Rome, it was but natural that those nations desired a greater share in the vast benefits derived chiefly from their valour. "Who can triumph over or with-

out the Marsi?" was said proverbially of one of the Italic nations, who consummated Rome's universal supremacy.[1] The merits of the others were scarcely less. They had, it is true, all been enjoying almost complete inner autonomy and much freedom in their commercial or political relations; but they wanted more. Their complaint was not the oppressiveness of Roman rule, for that rule was scarcely ever felt. They rebelled not, like modern dependencies, colonial or provincial, against the overbearing rule of the central or mother country. They rose in order to claim, perfectly legitimately no doubt, that they should be put on an equality with the citizens of Rome, and become Roman citizens in the full sense of the term. The vast difference between modern and ancient citizenship can be realised by nothing more forcibly than by a study of those claims. If the people of Switzerland or Belgium were to threaten France with war for not conferring upon them French citizenship, we should absolutely fail to understand either the threats or the refusal. It was exactly that kind of threat and that kind of refusal that filled Italy with bloodshed and terrorism for over twelve years. As long as we represent to ourselves the essential feature of the city-state, as here repeatedly stated, we cannot wonder at the forbidding attitude of the Roman Senate. A city-state cannot make light of its citizenship. To confer the same on whosoever wishes it is utterly opposed to its very life. It is, by the natural tendency of its constituent elements, an oligarchy or a democracy of few citizens. All that it can do is to grant to other commonwealths terms of confederation. That a city-state cannot

[1] Appian, *De bellis civil.* i. 46.

possibly go to a greater length of concession is evident from a variety of considerations. The political parties in a city-state react more sensitively on the external relations of their State than do the parties of any other form of State. The tendency to strengthen themselves by extraneous help is one too strong to be resisted by either of the parties, provided that extraneous help can be had at no great sacrifice. As long, therefore, as the confederates of Rome were kept in shrewdly graded dependence on, and distance from, the inner sanctum of the Roman commonwealth, neither party in Rome could seriously think of enlisting any of the allies in its cause. For such enlistment could have been obtained at no less a price than either subjection to the helpers, or assimilation of them. The first alternative was too degrading, the second too galling. At the commencement of the first century B.C., however, the economic condition of the majority of Roman citizens had commenced to show signs of grave failings. Agriculture was beginning to be beyond the reach of the small citizen; vast hordes of slaves, acquired in the incessant wars, were crowding out free labour, as the *latifundia* and enormous pastures were supplanting the small holdings; the *leges frumentariae* were demoralising the lower classes of Rome by their gratuitous grants of cereals; debts and relentless creditors began to exasperate ever-increasing masses of Romans; and it began to be felt by the demos of Rome that the granting of the citizenship, so eagerly sought after by the Italic nations, was in reality scarcely worth opposing. In that mood of the demos of Rome, the opponents of the aristocratic Senate proposed not only agrarian laws and *novae tabulae*,

or cancelling of debts, but the extension of the full Roman franchise and citizenship to the Italic confederates. This of course was rarely the outcome of noble impulses or lofty ideas about the unity of Italy, but generally from motives of political opportunism. With all Italy at their back, they were certain to crush the Senate and the optimates. At the head of the so-called popular party was C. Marius, in 100 B.C. for the sixth time consul. He was originally an upright, gallant soldier, and nothing else; the current of events made him a demagogue of the worst kind. His assistants in the democratic onslaught on the historical leaders of Rome were L. Appuleius Saturninus, *tribunus plebis* in 100 B.C., and the praetor, C. Servilius Glaucia. The veterans of Marius' army were now given the territory saved by their master from the invasions of the barbarians, and agrarian and frumentarian laws were passed afresh. The Italic confederates were of course made to share in most of these reforms. Q. Caecilius Metellus, refusing to take the oath on the new agrarian law, went into exile. Appuleius and Glaucia now fairly terrorised the Senate and the comitia, until Marius himself went back on them, and suffered them to be slaughtered on the capitol, whither they had repaired with a few partisans (100 B.C.). The victor of the Teutons played, it would appear, a most unworthy part in those troubles, and in 99 B.C. left Rome for Asia Minor. In the same year the *lex Calidia* permitted the return of the noble Metellus. For eight consecutive years nothing of consequence appears to have happened at Rome or elsewhere;[1] and

[1] However, it must be remarked that our sources for that period are in the highest degree incomplete.

that new period of peace wrought the same evils that prolonged peace always will work on high-strung polities. The Italic confederates, seizing and availing themselves of the power which the parties in Rome countenancing their claims offered them, came forward more and more urgently. Finally, the constant friction between the confederates and Rome fanned the smouldering fire into a fearful blaze of war—the social or Marsian war.[1] Amongst the magistrates whose ambition and power precipitated the last phase of the Roman commonwealth, the tribunes were the most prominent by far. The last of the great tribunes was M. Livius Drusus (91 B.C.), who, curiously enough, reiterated the false strategy of Tiberius Gracchus in estranging from himself the very orders for whose benefit he worked. It is certain that Livius, the descendant of a rich and influential family, desired to restore the tribunals to the Senate, increasing the members of the latter by an addition of 300 knights. He succeeded in that, and thus meant to ingratiate himself with the Senate and the knights. The victory, however, was obtained chiefly through the prestige of Livius, which was gained by his connection, or formal treaty (?),[2] with the Italic confederates, for whom he promised to secure the full Roman franchise. The Senate, too, had promised the same, but never seriously thought of redeeming its word. Livius likewise introduced agrarian laws, and thus became at once the benefactor of the Roman

[1] The chief source of the social war is Appian, *De bell. civil.* i. 35-53. Diodor. *Fragmenta*, xxxvii. (Excerpta Photii); Livy, *Epit.* lxxii.-lxxvi.; Florus, iii. 18; Plutarch, in *Mar.* 33, *Sulla* 6; and Strabo, v. 4, p. 1369, are shedding some side-lights on it. On the trustworthiness of Appian compare Willy Strehl, *M. Livius Drusus Volkstribun im Jahre* 663 *u. c.* (Marburg, 1887), a dissertation.

[2] This question hinges on the authenticity or spuriousness of the oath taken by the confederates to Livius, preserved in Diodor. *Fragm.* xxxvi. 16.

demos and the prospective liberator of the Italic confederates. The optimates could stand his rising popularity no longer; they assassinated him, and abolished his laws. The career of Livius is one of the most instructive and suggestive subjects of Roman history in the last century of the Republic (150-50 B.C.). He failed, but the factors which raised his more fortunate successors to the throne of the emperors are already clearly discernible in him. The Gracchi and he are the preludes to Sulla and Caesar and Augustus. By levelling down magistracies, the franchise, and social ranks, he, like the Gracchi, paved the way for that species of monarchy that is called Caesarism, or democracy reduced *ad absurdum*.

The confederates, who had placed much confidence and great hopes in Livius, now despaired of obtaining their end in a peaceful way. In 125 B.C. the Fregellans, a large Italic community, on being baffled in their expectations of the franchise, had already openly rebelled. The Romans easily coerced the unassisted city, and destroyed it completely. The confederates were mindful of that, and determined to obtain their wishes by joint efforts. Their indignation against Rome was well founded. Alternately the dupes of the Senate or the demos, they had been played fast and loose with in a most irritating manner. Even the agrarian laws, passed from time to time at Rome, did them frequently more harm than good, many of their *possessiones* being adjudicated to new possessors. The war began with the assassination of a Roman magistrate at Asculum. The Marsi, Paeligni, and later on the Picentini, all of them Sabellic nations, seceded first. They were soon joined by South Italy. At first they offered to desist

from hostilities if the full Roman franchise were accorded them. This was haughtily refused. The secessionists (or, rather, unionists) then established at Corfinium, or, as they called it, *Italia*, an anti-Rome, with a constitution, coins, and laws essentially Roman in character. The northern nations, and chiefly the Latins, kept at first faithfully to the Romans. The first year of the war, 90 B.C., was again disastrous for the Romans; Pompaedius Silo, a Marsian, and C. Papius Mutilus, a Samnite, covered themselves with glory in their battles against the Roman consul Rutilius, and against Lucius Julius Caesar. Campania was occupied by the confederates, and Rome apprehended the worst on learning that even the Umbrians and Etruscans had seceded and joined the confederates. The Senate was forced to yield, and the still loyal confederates now received, by virtue of the *lex Julia* passed by the consul Lucius Julius Caesar (90 B.C.), the full Roman franchise. In the next year the Senate was compelled to make still further concessions by the *lex Plautia Papiria* (89 B.C.), moved by the *tribuni plebis* Marcus Plautius Silvanus and Gaius Papirius Carbo, granting the franchise to such of the confederates as desired it. It is worthy of remark that Heraclea, and also Neapolis, preferred their old relation to Rome.[1] By these concessions, prudent if not heroic, the severity of the onslaught was reduced considerably. Roman armies under Cn. Pompeius and L. Sulla were much more successful in 89 B.C., and with the exception of the Samnites, Lucanians, and the city of Nola, all the other rebels were reduced to submission.

[1] Cicero, *pro Balbo*, 8.

BOOK VI

THE FIRST CENTURY B.C. AND THE EMPIRE

Up to the end of the social war the history of Rome is the history of a State. No matter how great the genius or good fortune of individual Roman statesmen or generals previous to 89 B.C. may have been, the genius and good fortune of the Roman State was still greater. Without the anonymous heroes of that commonwealth, the great leaders of the Punic, Spanish, Macedonian, and other wars could not have achieved their remarkable deeds. After 89 B.C. a single man steps forward. His dimensions, human in appearance, stretch out to cosmic dimensions. His arms reach Spain on the right, and Pontus on the left; and his feet trample on Africa. His voice strikes terror into the members of the most triumphant nation of history. His luck defies the gods. He succeeds where he premeditated the matter carefully; he succeeds where he scarcely gave it a thought. Exposing himself to all the inclemency of the weather of three continents, and all the corrosiveness of lust and luxury, he still keeps in good health to the end of his days. Men and women are alike at his feet. In all the vast expanse of the Roman Empire there is no other will than his. The universe obeys him. After having been Sulla, he becomes Caesar, and finally Augustus. In other words, history becomes biography. From 89 B.C. to

the end of the century the history of Rome is the biography of Marius, Sulla, Pompey, Caesar, and Augustus. This is the profound change supervening in Roman history after 89 B.C. Judging from the immense literature written on the "history" of Rome in the first century B.C., ever since the Renaissance, one might think that there should be no doubt and no cloud left about the causes of that profound change. Nor do numerous historians admit that such remain. However, the surprising change which came over Rome after the first decade of the first century B.C. is far from being fully comprehensible. The general condition of Italy, it is true, during the years from 110 to 90 B.C. was pointing to a crisis. We have already mentioned that, probably through the legislation of Caius Gracchus, who, it seems, forbade senators to become *equites*, a new member, a new order of men was added to the body-politic of Rome—the equestrian order. The Roman commonwealth had now three organs: (*a*) the patricians, and the nobles, by incumbency of office; (*b*) the equites, or the financial aristocracy; and (*c*) the mass of the lower classes. A middle class was wanting. The incessant wars, the rise of numerous *latifundia*, and the absence of industry, then generally despised, because chiefly in the hands of slaves, had brought about a constant falling-off in the numbers of that middle class of thrifty and sturdy citizens who, in former times, were the marrow of the Roman commonwealth. Moreover, Italy, like Greece after the reign of Alexander the Great, was rapidly drained of hundreds of thousands of people, who emigrated to the rich eastern countries conquered in the second century B.C. And finally, the vast riches acquired by single Romans during their campaigns

and by the depredation of nearly all the Mediterranean nations, acted upon Rome as did the discovery of the gold and silver mines of America on Spain sixteen centuries later. Wealth was most unequally distributed, and capital smothered all smaller industrial or agricultural enterprises. The sudden influx of vast treasures, together with the lawlessness of camp-life, also demoralised the Romans, rendering the lower classes disgusted with the plodding labours of small freeholders, and prone to get their living by currying favour with the rich, while the higher class lost much of that integrity of character which had strongly contributed to and made them worthy of their astounding success.[1]

[1] The fast falling-off in the middle class of Rome in the second century B.C. cannot be proved by statistical data; but it is evident from all the contemporary writings, especially those of Cato and Polybius. For more details, see Victor Duruy, *Histoire des Romains* (Paris, 1844), vol. ii. pp. 40, etc., and Theodor Mommsen, *Röm. Gesch.* (seventh ed., Berlin, 1881) i. pp. 855, etc. From among the countless acts of rapine, exaction, and predation committed by Roman generals during their campaigns or their administrations, we may adduce only the following:—Livy, xxxix. 42, 7, etc.; xlii. 1, 7; xliii. 4, 5; 6, 2; 7, 8, etc. Against the Lusitanians: Cato, *Origines* (in H. Jordan, *Catonis praeter libr. de R. R. quae exstant* (1860), p. 27); against the Spanish tribes: Livy, xliii. 2; and Verres' administration in Sicily, immortalised by Cicero's orations against Verres. The consuls who commanded in Greece and "Asia" from 200 to 188 B.C. exacted and obtained 633 golden wreaths, at an average weight of twelve pounds each. Athenaeus, brother of Attalus, King of Pergamum, gave, in 183 B.C., to the Roman Senate a golden wreath of 15,000 gold-pieces. In vain did an increasingly severe set of laws against exactions, *leges repetundarum* (the first of which was the *lex Calpurnia*, by the tribune L. Piso Frugi, of 149 B.C.), attempt to put a stop to the frightful abuse of power practised by Roman provincial governors. For the latter were in close connection with the *equites*, who likewise exploited the provincials, and who were at the same time their judges in case of trials. Hence arose scandalous acquittals of the most brazen pillagers of Roman provinces. On the unequal distribution of wealth in the period extending from 115 to 80 B.C., it is unnecessary to dwell in detail. The Roman writers are full of it. Cicero (*de Officiis*, ii. 21) tells us that the tribune L. Marcius Philippus exclaimed, in 104 B.C., that Rome did not possess 2000 well-to-do persons; and Caesar found that of 450,000 citizens, 320,000 lived on public gifts. The moral decadence in the higher classes of Rome is equally evident.

This state of things pointed, as has been said, to a crisis. For the population of Italy was, it would appear, recruited from two kinds of people: one deprived of all civil means of earning their livelihood, and therefore throwing themselves headlong into the ventures of reckless generals or at the feet of rich *patroni*; the other, over-rich merchants and a handful (it is said, fifteen) of old patrician gentes.

Yet for all that, the career of Sulla, Pompey, Lepidus, Caesar, or Mark Antony cannot be satisfactorily constructed; and the reason why the Roman State, hitherto based on constitutional freedom, should at a blow degenerate into an absolute monarchy, remains obscure. The main reason why that change cannot be grasped in all its causal relations, is the absence of all literature or any other historical source about peoples in Italy other than the Romans.[1] The charm of and interest in Rome are so great that modern historians very seldom think of the influence that States other than Rome must have had on the moulding of European history in the second and first centuries B.C. And accordingly, it is generally held that the decadence of Rome alone is a sufficient reason for the decadence of all political freedom in the Mediterranean countries. It is, however, certain that in the grand process of disintegration, beginning a hundred years before Caesar's death in 44 B.C., Rome was not the only factor. Just as Rome formerly rebounded with fresh vigour from all the

On many a delicate point, see Nitzsch, *Gracchen*, pp. 171 ff.; J. Rouyer, *Etudes médicales sur l'ancienne Rome* (Paris, 1859), pp. 70, etc. (on abortions). Also the numerous laws and praetorian edicts *de vi*; in M. Voigt, *Röm. Rechtsgesch.* § 11, note 15.

[1] With the exception of M. Porcius Cato, in his *Origines*, no Roman writer, as far as we know, so much as attempted to inquire into the history of Italian commonwealths other than Rome.

innumerable defeats dealt her by external foes, so might she have recuperated from the corruption and decay of her inner enemies. France, at various periods of her history (in 1350, in 1420, in 1570, in 1715, and in 1793 A.D.), was a prey to the most desperate conflicts of inner foes, yet she overcame all of those crises, and is at present second to none in prosperity, financial, moral, or social. That the publicans and *equites*, in basing their power on money, grievously attainted the foundations of the Roman commonwealth is certain. That the mass of the population of Italy, especially in some central and southern parts, had, by 100 B.C., sunk to a status of proletariat, that made them mercenaries in war and nuisances in peace, is fairly certain also. But if Rome was decaying, why was she not rejuvenated by Italy, by the still numerous class of the well-to-do people of the Italian *municipes* in the north, east, and south of Italy? The *equites* were largely municipal people — men coming from the towns and boroughs of Italy.[1] The Senate too was recruited to an ever-increasing extent from municipal worthies. The Marsian war having united all Italy by the common citizenship of Rome, it was not futile to suppose that Rome would now be enlarged to an Italian nation. Why did it not happen? Why did the Italiots, after having engaged in a most sanguine war for the mere name of "Roman citizenship," rest indifferent to the fate of the Roman State, now their own? Neither Sulla nor Pompey were men of that supreme kind of genius (if such a genius there be at all) that drives events and institutions into channels

[1] See Émile Belot, *Histoire des chevaliers romains*, vol. ii. (Paris, 1873), pp. 106, etc., containing statistical data.

of its own making and willing. How, then, shall we understand that all the power of Rome came to be embodied in the person of a blue-eyed *viveur* and cultured gambler like Sulla, or a stolid and commonplace philistine like Pompey? They themselves did not understand it either. We shall see that after having defeated fearful enemies abroad and rivals at home, Sulla, the favoured son of Fortune, suddenly, in full enjoyment of health and at the age of 59 years, abdicated from all power and retired to his angling-ponds at Puteoli. Had the fall of the Roman commonwealth been so inevitable as modern historians like to state, there was no reason for Sulla to do what no man ever did, either before or after him. Others too abdicated; but neither from a power equal to that of Sulla, nor so rapidly. But Sulla did not see at all that the commonwealth was virtually at an end. There was a crisis; no more. And it is as yet impossible to see why the crisis led to civil wars which ended in Caesarism. We can fully comprehend the decay of Greece or perhaps even Carthage. We cannot fully comprehend the decay of the Roman commonwealth. It is idle to dwell with indignation on the moral decadence of the Romans in the first century B.C. City-states, we grant, do need superior ethical strength; and the failing of the latter will undoubtedly debilitate the former. However, Rome was not so thoroughly attainted as many a modern writer would fain make us believe. Single passages from this or that Greek or Roman writer cannot bear out the statement that Rome was all rottenness. That there was much of it may be conceded. But what State has been free from such evils altogether? The Byzantine empire was certainly

more ravaged by the canker of inner diseases than was the Roman commonwealth. Yet it survived the shocks of over 1000 years. If, therefore, we do not pretend to trace the pathological process of Rome's fall in all its stages and to all its causes, we can be upbraided with no lack of dutifulness. Yet we cannot leave this most absorbing of all subjects of ancient history before Christ, without attempting to outline at least the cause that, perhaps more than any other, precipitated the downfall of the Roman commonwealth.

That great city-state, we take it, fell mainly in consequence of the irreconcilable conflict between itself and Italy. Rome was unable to divest herself of her character as an isolated city-state, and her conflict with Italy ended in the loss of her freedom. All the civil wars, from 89 B.C. to the battle of Actium in 31 B.C., were practically wars between the Italiots against Rome. The various leaders in those frightful contests derived their main support from the ever-discontented peoples of Italy. In the end the fruitless struggle ended in a compromise, by virtue of which both Italy and Rome agreed to acquiesce in Caesarism. The cause—perhaps the most potent of all the causes—of the downfall of the Roman commonwealth was therefore the same that broke the vitality of Carthage, Sparta, Athens, and all the other great city-states in antiquity. Carthage, unable to come to sound political terms of co-existence or rule with her African neighbours; Sparta, unable to blend with or to assimilate the Achaean league; Athens, unable to unite or to rule her neighbours; all of them appear to have failed, and for the same reason too, to acquire sufficient

strength in the period when conflicts, ceasing to be local, had become international and European. Rome, in a manner unknown to us, contrived to attach Italy to her interests long enough to achieve the conquest of the whole Mediterranean world. When, however, Italy broke loose from Rome, the grand city, now beyond the reach of international disasters, succumbed to the plague of civil wars mainly fostered by Italy.

In the first decade of the first century B.C., one of the despots of Asia Minor, Mithridates VI.[1] Eupator, ruler of Pontus, appeared to be willing and able to shake the international balance in the eastern half of the Mediterranean world. Endowed with gifts, both bodily and mental, the admiration of which has inflamed historians otherwise hostile to him, Mithridates was urged by a fanatic ambition to become the ruler of the entire East. His knowledge of the terrains and peoples of Asia Minor (whose languages and dialects, twenty-two in number, he is said to have known) was considerable, if not complete; his treasures, hidden in various castles and fortresses, were immense; and his regard for humane feelings so small, that success, generally the reward of ruthless calculation, could scarcely escape him. Moreover, Rome, the then domineering power, was rent by internal dissensions; and the Asiatics were nourishing innumerable grievances against the Roman and Italic people inhabiting and exploiting Asia Minor. Mithridates boldly encroached first upon Paphlagonia and Great Cappadocia; then, together with

[1] *Mithridates* is not wrong, all the MSS. of ancient writers agreeing in this spelling. Inscriptions and coins alone spell it Midradates ("given by the god Mithras").

his ally Tigranes, the powerful King of Armenia, upon Bithynia and Cappadocia. Great Cappadocia, however, he was forced to abandon by L. Sulla, in 92 B.C.; Bithynia too he ceded, at the intercession of the Romans, to Nicomedes III. of the Bithynian dynasty, but not for long. For Nicomedes, at the instigation of the Romans, attacked Mithridates, 89 B.C. The panther of Pontus now delayed the war with Rome no longer. He rapidly took Bithynia and the province of Asia, and tried, although vainly, to storm Rhodes. All the Romans and Italic people dwelling in "Asia" were, at his behest, massacred on one and the same day, 88 B.C. In the same year he sent an army to Macedonia, and a fleet into the Aegean Sea. Athens joined him, and so did, deliberately or by compulsion, nearly the whole of Greece. Rome could wait no longer. Sulla, consul in 88, was the legal leader in this, the *first Mithridatic war*. However, the tribune P. Sulpicius, backed by Italic malcontents, managed to secure the generalship for old Marius. Sulla, at the head of his army at Nola, quickly bore down upon Rome, took the city, aided by Cn. Pompeius Strabo, forced Marius to fly, abolished the laws of Sulpicius, passed others weakening the tribunate and strengthening the power of the Senate, and in 87 B.C. went to Greece to combat Mithridates. Marius, who had contrived to save his life in a series of hairbreadth escapes through Italy to Africa, was called back to Rome by L. Cornelius Cinna, consul of 87 B.C., who had been ejected from office by his colleague Cn. Octavius. Marius won over the Samnites, who were still at war with Rome, and took The City by force. Sulla's laws were repealed, his estates confiscated, his house

demolished. Numerous Sullan senators were cruelly massacred. Marius, now for the seventh time consul, wreaked vengeance with the fury of bloodless old age. Death prevented him from contaminating his past still more, January 86 B.C. Meanwhile Sulla was routing the plans of Mithridates in Greece. The Greeks mostly joined him, and Archelaus, general of Mithridates, was soon restricted to Athens, then under a "tyrant," and to the harbour-town of Piraeus. Sulla commenced forthwith the siege of both places, continuing it though meeting with the utmost obstinacy and ingenuity. Finally, famine forced Athens, then the Piraeus, to surrender (March 1, 86 B.C.); their inhabitants were mostly slain, and many committed suicide; Archelaus barely escaped. The Pontic army, coming from Macedonia, and being much more numerous than Sulla's, was in the same year signally defeated by Sulla at Chaeronea, on the boundaries of Boeotia and Phocis. Before the year 85 B.C. was over the lucky Roman likewise routed another Pontic army under Dorylaus, near Orchomenus, in Boeotia, thus terminating the Mithridatic war in Europe in 85 B.C. In Asia too, C. Flavius Fimbria, commander of an army of Roman mutineers, defeated a Pontic army at Miletopolis, forcing Mithridates to evacuate Pergamum, his residence. Allies seceded from the king; the Romans gathered a fleet; the issue of his venture grew more and more doubtful. Sulla too, who craved vengeance on his Roman foes more than wearisome wars in Asia, desired to come to some terminating agreement. Peace was made. Mithridates consented, after much tergiversation, to give up Cappadocia, Paphlagonia, Galatia, Bithynia, and "Asia," that is, all his conquests; to pay 3000

talents; and to surrender most of his fleet (84 B.C.). Sulla, after having coerced the pestering Dardani, Maedi, and other marauding tribes north of Macedonia, levied enormous contributions on the people of Asia Minor. The unfortunate victims, already sorely taxed by the war, were compelled to pawn or sell their theatres, temples, or other public goods, to be able to meet Sulla's exactions. After spending the winter of 84-83 B.C. in Greece, the favourite of Fortune repaired, at the head of his army, to Italy. There L. Cornelius Cinna, the elder, and Papirius Carbo were levying troops against him. For, so low had sunk the inner political life of Rome, that all the conflicts that had formerly turned on issues of State-interest had now been transformed into wrangles about party-leaders, whose patriotism was centred in themselves. The beautiful play of great statesmen had been changed into the exciting but aimless and worthless game of selfish gamblers. Sulla now first of all secured the Italic "citizens of Rome" by confirming their right of being enlisted among the members of all the *tribus*, a right given to them in 87 B.C., and admitting them to the actual, not only to the nominal, enjoyment of the Roman franchise. Then he defeated the consul C. Norbanus on the Tifata, 82 B.C., as well as C. Marius (the adopted son of Marius, the demagogue) at Sacriportus. Carbo, driven from Etruria and *Gallia Cispadana*, escaped to Africa; the remains of his army, however, joined by the Samnites and Lucani, tried to relieve Praeneste, where C. Marius was besieged. Suddenly they turned round on Rome, which they nearly took, but were, after desperate resistance, beaten by Sulla, and chiefly by Sulla's partisan, M. Licinius Crassus,

at the *porta Collina*, Nov. 1-2, 82 B.C. Praeneste was forced to surrender; C. Marius resorted to suicide. The Marian party was annihilated. Sulla, although persistent revengefulness does not seem to be part of a gambler's stock-in-trade, introduced the Proscriptions. By that term was meant a list of persons declared to be outlaws, whose estates were sold publicly; whose slayer instead of incurring a penalty was promised a reward; whose grandsons even were incapacitated for any public office (a measure repealed subsequently by Caesar); and whose abettors were likewise subject to certain penalties. The number of persons outlawed by Sulla is uncertain;[1] about a hundred senators and 2600 knights are said to have been killed, or deprived of their fortune and status. Sulla gave also settlements to nearly 120,000 of his soldiers on confiscated or public domains, chiefly in Samnium and Etruria. The Marian party in Africa, under Cn. Domitius Ahenobarbus, was dispersed by Pompey. Sulla was thus made lord of the entire Roman Empire. His official title was dictator, appointed for an indefinite term. Of the changes he established in the constitution of Rome we shall treat at another place. Here it may suffice to say, that he humiliated the equestrian order, and aggrandised the power of the optimates and that of the Senate. In 79 B.C. he renounced, to the astonishment of the world, all his power, and withdrew to Puteoli, spending his time with rural sports, with the composition of his Memoirs, and with occasional dips into politics. He died in his sixtieth year, 78 B.C., after having enjoyed a cloudless luck all through

[1] Compare the conflicting statements of Florus, iii. 21, 25, with Appian, *Bell. Civ.* i. 103.

his life. Sulla was a Cesare Borgia, but a lucky one. One marvels less at his success on viewing him in that light. Trampling upon all scruples makes success much easier. Caesar or Napoleon were much more successful than Sulla, without outraging humanity at all.

From 83 to 81 B.C. L. Licinius Murena led the *second campaign* against Mithridates, with no particular luck; yet he managed to possess himself of much booty. Peace was made on the basis of the first treaty of 84 B.C.

After Sulla's death the Marians attempted to carry the field with more ardour, and with more success than ever. M. Aemilius Lepidus, it is true, was defeated on the Campus Martius near Rome, and retired to Sardinia, where he died. His legate, M. Junius Brutus, father of Caesar's murderer, was besieged in Mutina by Cn. Pompey, who forced him to surrender and had him killed, although Brutus had been assured by Pompey of freedom. In Spain, however, Q. Sertorius, one of the cleverest of the Marians, waged for eight years (80 to 72 B.C.) a very successful war against the armies of the Senate. He even established an anti-Senate, and was in touch with Mithridates. His ambitious plan was to civilise Spain, and to that effect he had numerous Spanish youths sent to a school at Osca (Huesca), where they were taught Latin and Greek. At heart he remained Roman to the last, and life in Rome even as an insignificant citizen appeared to him more glorious than to be king of all the barbarians. The noble hero was felled by assassins in 72 B.C., and Pompey finally defeated M. Perpenna, Sertorius' successor, and reduced the Iberians to submission.[1] A still more

[1] See Peter R. v. Bieńkowski, *Krit. Stud. üb. Chronologie u. Geschichte*

dangerous campaign was victoriously terminated by the praetor M. Licinius Crassus, and by Pompey. The slaves of Campania and South Italy, under the leadership of Crixus and Oenomaus, both Gauls, and the heroic Spartacus, a Thracian, started a rebellion, 73 B.C., and after beating several Roman armies, menaced Rome herself. It was only after various ominous reverses that the said Roman generals quenched the fearful revolt, in 71 B.C.

The next decade was filled with wars against the pirates, who from their haunts in Crete, Cilicia, and elsewhere, were infesting the whole Mediterranean, carrying devastation and terror into nearly all border cities of the sea; and against Mithridates. The pirates had, ever since 140 B.C., continued to grow as an international nuisance; and neither M. Antonius, in 102 B.C., nor P. Servilius Isauricus (78 to 76 B.C.) were able to put an end to their raids. Finally Pompey, hitherto always successful, was entrusted with the extermination of the pirates. He freed the Libyan and Tyrrhenian seas in forty days, and forced the buccaneers, now concentrated in Cilicia, to surrender unconditionally. Within a few months the whole of the Mediterranean was completely rid of them, a majority of the captured pirates being settled in inland places. The booty Pompey conquered is said to have been immense.

The (*third*) war against the ever-pestering Mithridates began, *more romano*, with grave defeats, until Consul L. Licinius Lucullus appeared in the field, 73 B.C., who nearly annihilated the King's army. The navy of Mithridates was also beaten off

des sertorian. Krieges, in *Wiener Studien*, xiii. 1 (1891), pp. 129-158; xiii. 2, pp. 210-230 (1892).

Tenedos, and Lucullus, pushing on to Pontus, compelled Mithridates to fly to Tigranes for help. The cities on the coast of Asia Minor alone resisted for nearly two years, 72 to 70 B.C. Lucullus meanwhile proceeded to the interior of Asia, where he crossed the Euphrates, defeated Tigranes near Tigranocerta, taking at the same time the rich city, 69 B.C. This victory implied Tigranes' loss of Syria, which he had possessed for fourteen years. Lucullus gave it over to Antiochus Asiaticus, a Seleucide. During his campaign in Mesopotamia, Mithridates had again levied an army, and defeated Lucullus' legate Triarius. The soldiers of Lucullus became mutinous; the Senate, whose majority was now democratic, deposed the aristocratic Lucullus, and thus his whole campaign against Mithridates was shorn of all success. Now Pompey was sent against the Pontic king; the *lex Manilia*, fervently backed by Cicero, appointed the victor of the pirates to the headship in the final campaign against Mithridates, 66 B.C. He defeated the old land-robber, and also Tigranes, with whose enemy Phraates, king of the Parthians, he struck up friendship. The conquest of Pontus, Armenia, and the Caucasian countries he completed in 65 B.C., and in 64 B.C. Pontus was united with Bithynia as a Roman province. In the same year Pompey proceeded to Syria, which was lacerated by intestine feuds between petty dynasts and cities. Disavowing Antiochus Asiaticus, and unseating numerous dynasts, Pompey made Syria a Roman province. In Judaea he settled the feud of the brothers Aristobulus and Hyrcanus, bringing the recalcitrant Jews to book by the capture of the fortress of the temple of Jerusalem after a siege of three months. The first

among mortals, except the high priests, Pompey entered the Holy of Holies. Hyrcanus was accorded the high-priestship, Aristobulus taken to Rome, and Judaea made to pay a heavy annual tribute to Rome. In Judaea, as well as in Pontus, Pompey founded or re-established many a city. Meanwhile the old Pontic warrior, deserted by everybody, and incapable of carrying out his last plan, a Hannibalic attack on Rome through the north of Italy, ended by asking one of his remaining servants, a Celt, to kill him. The Celt complied with the wish of his master, and Rome was freed from one of the most formidable of kings with whom she ever had to fight. Pompey repaired to Pontus and regulated the various countries, leaving Armenia to Tigranes; Osroene, Sophene, and other regions to friendly princes severally.[1] At last he returned to Rome, the victor over half the then known world. At his triumph he declared having battled with two and twenty kings.

During the third war against Mithridates, the internal party-dissensions at Rome were becoming more and more acute. Ever since the beginning of those fatal dissensions, the men at the head of the various parties had been men of remarkable capacity in one way or another. Towards the end of the fourth decade of the first century B.C., however, the leadership of the contending parties fell to the lot of men, not of great, but of the very greatest capacity. And since the fate of Rome was to be decided by individuals rather than by institutional crises, it became evident, and was generally felt, that the

[1] See the beautiful map of Pompey's "arrangement" of Asia Minor, Syria, and adjacent countries at the end of W. Fabricius' *Theophanes v. Mytilene und Quint. Dellius als Quellen der Geogr. d. Strabon* (Strassburg, 1888).

crisis was nearing. Those men were Pompey, Caius Julius Caesar, P. Clodius Pulcher, Marcus Tullius Cicero, Titus Labienus, and M. Licinius Crassus. Pompey, the least able of the rivals, was yet a massive and successful general; Caesar, of one of the oldest patrician houses of Rome, a genius both in politics and in the field; Clodius, a ruthless anarchist; Cicero, a statesman and the creator of a literary language which has influenced European mankind more than any other idiom; Labienus, a very great general and resourceful statesman; Crassus, a man of fabulous wealth. The deeds and misdeeds of these fascinating and ever-memorable men go to form the last scene in the drama of Roman Republicanism. They, together with numerous other minor men, of many of whom we have only very dim information, precipitated the fall of Rome on the slope of decline. That all of them, except one, missed their points, Caesar turning out to be the heir of their and his own actions; that can be ascribed to inexplicable causes only. By the middle of the fifth decade of the first century, and long before Caesar's ultimate victories, it was felt that the Republic was at an end, and that an indefinite *dictatura* or monarchy was at hand.[1] The monarch was uncertain; the monarchy was inevitable. That Caesar was to be the first monarch; that can be reported, but not fully accounted for—no more than can the fact that a silly monster like Caligula was tolerated as monarch of the world eighty years after Caesar. Professor Theodor Mommsen, the famous German scholar, has, in a universally known work,[2] spent all the magnificence of his stately

[1] Cicero, *de harusp. resp.* 19 (40); 25 (54); *ad Atticum*, iv. 16, 11.
[2] *Röm. Gesch.* vol. iii. (sixth ed.) ch. xl. pp. 461 etc.

rhetoric on an excessive laudation of Caesar; and all the Prussic acid of his scorn and vituperation on the other Roman contemporaries of the great Julius; chiefly on Cicero and Pompey. Thereupon some historians have had the bad taste of pleading, in elaborate treatises, extenuating circumstances for the two last-named Romans. The general public, always easily overawed by words dropping from the mouth of a German University Solemnity, has been accustomed ever since to consider Cicero as a bad journalist, and Pompey as a dunce. Mommsen, incapable, like most Germans, of understanding political liberty, is an idoliser born of Caesarism. The founder of Caesarism, therefore, must, in the Professor's opinion, have been a well-nigh divine being. Caesar himself, had he seen the pages of Mommsen's book, would have probably sent them forthwith to Cicero, as a skit wherewith to exhilarate his leisure hours. Caesar, indeed, was fully aware that his successes were largely due to events brought about by others. At the age of nearly forty, he had, in spite of his burning ambition, achieved nothing that the blindest of his admirers could think of comparing with the feats performed by Alexander the Great or Hannibal, before they were thirty years of age. Had Caesar's personal genius been the cause of Caesar's success, nothing could have prevented him from arriving at the summit of power fifteen years before he actually reached it. His genius was great; his luck was greater still. Of his personality, it is true, we can scarcely form an exaggerated opinion. Greek culture and Roman urbanity and fortitude blended in him in the most captivating union. His mind was alien to none of the higher interests of the human intellect;

his heart appears to have retained up to the end much of the lovableness of youth. Having had occasion to learn from personal inspection the condition of all the then known peoples of the world, he no doubt firmly and clearly outlined in his mind the only feasible plan of government, in shaping, as he did, Caesarism. His merit of having drawn, with undaunted vigour, the historical inference from the given premises of Roman history, cannot be contested. The premises, however, were not laid by him. What the French Revolution did for Napoleon I., the Roman Revolution, raging since the time of the Gracchi, did for Caesar. The latter is impossible without the former. Currents like these two revolutions cannot be stemmed; they can only be utilised. But in duly acknowledging the greatness of him who turns the current to his account, we must not fall foul of him whose patriotic heart, aghast at the imminent ruin of the commonwealth, attempts to stave off the ultimate crash as long as possible. Cicero was such a patriot. He clearly perceived the approaching fate. He had moved too long in the midst of the throngs of the Forum, and the meetings of the Senate, to be in the dark about what was in store for Rome. "The result of a victory on either side," he said, speaking of Pompey and Caesar, "is sure to be monarchy. Neither of them aims at anything else."[1] Having rendered sterling services to his country as a consul (see below), he tried to save it from the *tyrannis* of Caesar or Pompey, by mediating between both. In this he failed; and necessarily so. Revolution-born crises can be remedied by the sword only; and Cicero was no

[1] Cicero, *ad Att.* vii. 5, 4; viii. 11.

general. No statesmanship whatever could have saved the Roman republic from the fangs of Caesarism in the sixth decade of the first century B.C. The Revolution had by that time eaten its way far too deep into the entrails of the State; and of international balance in the Mediterranean States there had long been no trace left. These two series of facts, which we can distinctly perceive, though we cannot trace them in detail, created a situation the natural issue of which was Caesarism. Had two or three of the large Mediterranean realms retained their ancient vitality (and we do not sufficiently understand why they did not), Caesarism could not have arisen. As matters stood, the Italic peoples had lost all interest in the endless wars; the other Mediterranean nations had no share in, nor power against, Roman ascendancy; and consequently the ancient Roman constitution, which taxed its citizens to the utmost of their moral and military capacities, was abandoned, and lightly too, by people who had unlearned the arduous tasks of liberty, and learned to acquiesce in cleverly disguised absolutism.

Cicero, of Arpinum, had quickly won fame and friends by his unique gifts as a forensic orator; and despite considerable antagonism on the part of the haughty aristocrats, the young politician rapidly ascended the rounds of magistracy. In 63 B.C. he even became consul; and by defeating the agrarian Bill of the tribune Servilius Rullus, which countenanced Pompey's plans concerning the settlement of his veterans, Cicero, hitherto partisan of the democratic Pompey, began to lean to the side of the optimates. He still more estranged the "popular" party from himself by his detection and public

arraignment of the conspiracy against the Senate and the aristocrats, brewed by L. Sergius Catilina and a band of debt-ridden democratic desperadoes. Catiline has descended to posterity in the image of a Ravachol, and he is credited with nothing less than the intention of burning and sacking Rome, in order to get rid of his debts. Failing in several attempts at the consulate, he is reported to have conceived that fiendish plot, in order that, in clearing his debts, he might also avenge himself of society at large. However, the statements of Sallust, the chief source of our knowledge of Catiline, do not quite agree with information gathered from side-sources. At any rate, Catiline was, in all probability, driven to mad excesses by constant failures in his career, rather than by innate fiendishness.[1] Cicero, who had affronted Catiline in the Senate, delivered against him the famous four speeches by which he denounced, and in the end baffled, the conspiracy.[2] This courageous conduct won for him the proud title of *Pater Patriae.* In January 61 B.C. Pompey landed at Brundisium, and, much to the astonishment of Rome, disbanded his army. After a splendid triumph, he found himself opposed by Crassus, Lucullus, and the optimates generally. He therefore allied himself with Caesar, who had for several years past exercised all his energy in continuing the *rôle* of Marius, his uncle, and who now, after his governorship in Hispania Ulterior, enthusiastically supported by the

[1] Compare Ernst von Stern, *Catilina und die Parteikämpfe in Rom der Jahre* 66-63 (Dorpat, 1883, a dissert.), where the bibliography of the question is given.

[2] Even the fourth Catilinarian oration was actually spoken by Cicero, on December 5, 63 B.C., though very probably not in the shape in which Cicero subsequently published, and in which we possess it. See A. Chambalu, *D. Verhältn. d. 4. kat. Rede zu den v. Cic. i. d. Senatssitzung d. 5. Dez. 63 wirkl. gehalt. Reden* (Neuwieder Programm, 1888).

democratic party, became consul in 59 B.C. Caesar persuaded Crassus to join him and Pompey, and thus the *First Triumvirate* was established. It was of a rather private character, yet effectually checked and overpowered the Senate and some of the patriotic tribunes, the triumviri being supported by a large number of knights. Caesar also prevailed upon the Senate to confirm all the Bills brought forward by Pompey, together with other Bills, the most important of which is the *lex Julia de repetundis*, in which the competence of governors was determined. The *lex Vatinia* accorded Caesar Gallia Cisalpina and Illyricum for five years, the Senate adding to these provinces that of Gallia Transalpina. One of the chief instruments, conscious or unconscious, of Caesar was Clodius, an anarchical temper, who seems to have been constant in his hatred of Cicero alone. Pompey and Caesar, both discountenanced by the great orator, let Clodius propose the punishment of the persecutors of the Catilinarian conspirators, and Cicero was compelled to exile himself, 58 B.C. Clodius, however, soon fell out with Pompey on account of the latter's Asiatic policy, and Cicero was able to return to Rome in September 57 B.C., and to bring over Pompey to the aristocrats. Cicero was mainly instrumental in procuring the *cura annonae* (the supervision of the cereals, both for free distribution and for ordinary purchases), and the proconsular power for Italy, for Pompey. In the following year the Senate was immersed in the affair of Ptolemy Auletes, who, being driven away by the Alexandrians from his kingdom in Egypt, resorted to the *triumviri*; these, however, were baulked of their ends by the clever manœuvres of the opposition in the Senate.

Meanwhile Caesar proceeded to Gaul. At that time modern France was inhabited by various peoples, who lived in villages (*vici*) and towns (*oppida*), the existence of the latter being ascertained in the territories of twenty-six tribes of Gallia Belgica and Gallia Celtica. In Helvetia (or, as the ancients called it, *ager Helveticorum*), or what corresponds to modern Switzerland, there were 400 *vici*, and only 12 *oppida*. In Gallia Celtica oligarchical institutions were the rule, the two ruling classes being the priests or Druids, and the nobles; in Gallia Belgica, monarchy sometimes obtained. The heads of the single clans were so powerful that the "Senates" of the various realms rarely were in the ascendancy; and this very decomposition of the political powers in Gaul aided Caesar most effectively.[1] Germanic tribes (Suevi?) under Ariovistus had, probably in 72 B.C., crossed the Rhine, and joining the tribe of the Sequani (in Alsace), who had solicited their help, conquered the Haedui. As invariably in cases of such helping friends from abroad, Ariovistus subsequently conquered the Sequani too, and was now practically lord in Gaul. Even the Roman Senate acknowledged and countenanced him, 59 B.C. Caesar's first encounter with the barbarians in Gaul (Gallic war) was in the territory of the Haedui, where he defeated the Helvetians who, leaving their unprofitable mountains, bore down upon fertile Gaul, 58 B.C. In the same

[1] About works on ancient Gaul, its history, institutions, peoples, etc., see Charles Émile Ruelle, *Bibliographie générale des Gaules* (Paris, 1880-86); A. Molinier, *Les Sources de l'Histoire de France*, vol. i. (1901); and the literature, given in the volumes of *L'Anthropologie*, a periodical. On Caesar's campaigns in Gaul there is, in English, the very elaborate work of Mr. Rice Holmes (*Caesar's Conquest of Gaul*, 1899); and in German, pp. 67-219 of Herr G. Veith's *Gesch. d. Feldzuege C. J. Caesars* (1906), which supersedes nearly all the former military treatises on Caesar's campaigns.

year he routed Ariovistus, near modern Mühlhausen. This victory gave him the ascendancy in Gaul as far up as the Seine river; the Belgae (except the Remi), and the Armorici alone still resisting him. In 57 and 56 B.C. he brought these tribes too to book. The conquest of Gaul, related by Caesar himself in a work of the chastest classical style, secured for the ambitious and debt-ridden triumvir the means, not only of paying his immense debts, or large portions thereof, but also of subsidising his partisans in Rome, and corrupting his opponents. In 56 he met Crassus at Ravenna, and Pompey at Lucca, for the concerting of new measures against the rising power of the optimates. Through bribery and brutal force, Crassus and Pompey were elected consuls for 55 B.C.; and in the face of much obstreperous opposition, Pompey was given the governorship of Spain, together with the command of four legions, and Crassus the governorship of Syria. Caesar's administration of Gaul was again prolonged for five years.

Pompey did not go to Spain in person. Crassus soon left for Syria with a view of curbing the Parthians, a martial nation that successfully contested the possession of Mesopotamia. In 54 B.C. Crassus took several places beyond the Euphrates; but in 53 B.C. he was totally routed near the city of Carrhae, and slain at an interview with Surenas, chief general of Orodes, king of the Parthians. Crassus' quaestor C. Cassius redeemed the honour of the Roman arms somewhat, but the growing power of the Parthians filled the people of Asia with new hopes of liberation from Rome, and in addition to rumoured revolts, the Romans were expecting the Parthians to attack Syria. This, however, did not

come off before 51 B.C., when the Parthians crossed the Euphrates, invaded Syria, but were defeated by Cassius near Antiochia. For reasons that are not at all clear, the Parthians left Syria in 50 B.C., and thus the much-apprehended danger was averted.

The rather inglorious campaign against the Parthians only served to throw the simultaneous wars and victories of Caesar in Gaul, Germany, and Britain into still more brilliant relief. Caesar defeating the Usipeti and Tencteri on the Moselle, 55 B.C., crossed the Rhine, probably near modern Neuwied, drove back the Sugambri and Suevi, and embarking (most probably, at least) near the harbour of modern Boulogne,[1] came over, the first Roman general, to Britain, which he revisited in 54 B.C. with a still greater army, coercing Cassivellaunus, one of the Briton chieftains. On his return to Gaul he was confronted by open revolts on nearly all sides; Roman legions were decimated, and Caesar and T. Labienus could reduce the rebels to obedience only after considerable efforts.

At Rome the crisis was nearing its outbreak. Pompey, well served by the reckless agitation of Clodius, was for a time checkmated by the optimates, whose Clodius was one T. Annius Milo. Such were the constant wrangles and dissensions, whenever new elections had to be made, that during seven months in 53 B.C. there were neither consuls nor other curule

[1] Boulogne is the *portus Itius* indicated in Caesar *B. G.* iv. 21, compared with v. 2. See Napoleon III., *Hist. de Jules César*, vol. ii. (1866) p. 443, and particularly R. Schneider, *Portus Itius* (Progr. des Königstaedtischen Gymnas., Berlin, 1888). For other opinions see Caignart de Saulcy, *Les campagnes de Jules César* (1862), pp. 174, 202, 206; and the numerous English writers on the question in Poole's *Index to Period. Liter.*, *v.* "Caesar," to which may be added F. H. Appach (1868) and F. T. Vine, "Caesar in Kent" (1886). According to S. F. Surtees (1868), Caesar never crossed the Channel. G. Veith (*op. cit.* p. 125) declares for Ambleteuse; Mr. Rice Holmes is for Wissant, *op. cit.* pp. 433-443.

magistrates in function, the tribunes alone continuing. In January 52, at last Clodius was killed by Milo on the *Via Appia*. The infuriated mob of Rome ran amuck on learning of the death of its favourite; many a noble building was set on fire; burglary and assassination were rife in the streets of Rome. The hoodwinked Senate, unable to extricate the State from its fearful predicament in any other way, finally made Pompey consul "without colleague," 52 B.C. This amounted to a complete breach with the constitution of republican Rome. Pompey was thereby declared the sole ruler of the Roman Empire. His troops were paid from the exchequer of the State; Spain was accorded him for five more years; and the instigators of the late street-revolution were arraigned under his auspices. Caesar, who by the death of Julia, 54 B.C., his daughter and Pompey's wife, had lost some of his hold over the all-powerful general, now vainly tried to share in the power which the anarchy in Rome had laid into the hands of Pompey. The breach between the two leaders was, however, not yet patent. Caesar even obtained the unconstitutional permission to run for the consulate while absent. The antagonism between him and Pompey became, nevertheless, wider and wider. The renown, power, and winning personality of the conqueror of Gaul, who gave to destitute Roman citizens and half-citizens new outlets of commerce and colonisation, were still more increased by new campaigns in 52 B.C. The Gauls, learning of the disorganisation at Rome, essayed, headed by the tribes of the Arverni and Carnuti, a new rebellion. Neither Caesar nor Labienus could at the outset master the steadily spreading movement, both Roman generals suffering

defeats and occasionally painful obstructions at the hands of the Gauls, who elected the heroic and shrewd Vercingetorix as their leader. Finally, after a most arduous campaign, Caesar succeeded, mainly by the aid of his Germanic mercenaries, in closing in Vercingetorix near Alesia (Alise Ste. Reine, in the Departement Côte-d'Or). Famine compelled the patriotic Gaul to surrender. Rome, never without some apprehension from the barbarians, was jubilant, 52 B.C. In the following year Caesar, though with very great difficulty, curbed the rest of the rebellious tribes in Gaul, whom he, anxious to repair to Rome, treated with much mildness. The inevitable conflict between Pompey and Caesar was brought to a head through the constant frictions between the abettors and friends of Caesar in the Roman Senate, cleverly marshalled by the popular tribune C. Scribonius Curio, and Pompey and his partisans, now chiefly optimates, during the years 51 and 50 B.C. Caesar, whose term of governorship expired on the 1st of March 49 B.C., did not want to disband his soldiers without having secured them the well-merited lands, nor without having bestowed upon the settlers in the province beyond the Po the promised Roman citizenship. Last, not least, he was quite conscious of the irreconcilable animosity borne him by the optimates and their present leader Pompey, and both for the safety of his person, and the realisation of his ambitious plans, he could not possibly retire into private life, unless Pompey and other of his enemies did the same. The people at large, both low and wealthy, craved for peace only. The ringleaders in Rome had thus free scope. They decided for social war. Caesar desired to compromise his

differences with the Pompeian party; at least he acted as if he did. Cicero, returning from his province, Cilicia, January 4, 49, likewise tried to mediate. It was in vain. Laws and *senatusconsulta* passed in 53 and 52 B.C., and which even then were meant to deprive Caesar of his spoils at the expiration of his term, were made the casuistic basis on which his inculpation as the foe of the commonwealth was founded. This, the purely legal aspect of the contention between Caesar and the Senate, is of subordinate interest. From the standpoint of Roman constitutional law, Caesar could under no circumstances deal with the Senate as its peer. As a matter of fact, Caesar was the lord of the Senate, Pompey proving as slow in his resolutions as he was distrustful and distrusted. Caesar sent his final letter containing proposals of compromise to the Senate, where it was submitted by Curio on the 1st of January 49 B.C., but ignored. On the 7th, Pompey was entrusted with the defence of the commonwealth against Caesar. The outlawed victor of Gaul, camping with one legion, the XIIIth, near the small river Rubicon, which formed the boundary of his province, crossed the water, exclaiming, it is said, "*jacta alea est*," and thus commenced the civil war with Pompey. At Rome there was nothing but utter confusion. Pompey himself left so hurriedly that he omitted to take with him the vast treasure of the exchequer. He levied troops in Italy, though not very energetically, and decided on leaving the peninsula for a while, in order to come back soon with his collected armies, both naval and continental, and, as Cicero said, "to starve out Rome and Italy." Many of his partisans joined Caesar, who suffered no loss by desertion, save T.

Labienus, who joined Pompey, and his thereby overjoyed party, in January 49, for unknown reasons. Caesar, leaving Rome aside, quickly moved southeastward to Brundisium, where Pompey prepared to embark for Epirus. In sixty days Caesar took, mostly by voluntary defection on the part of the towns, Ariminum, Arretium (the key to Etruria), Pisaurum, Fanum, Ancona, Iguvium, Auximum, Asculum, Sulmo, Corfinium, and tried, although vainly, to prevent Pompey from leaving the continent, on the 17th of March 49, the date from which the ancients generally reckoned the beginning proper of the civil war. Now the Pompeians abandoned even Sardinia and Sicily; and Caesar sent, to the former, Valerius; to the latter, his faithful Curio.

After a stay of a week at Rome, Caesar repaired to Spain, where seven Pompeian legions under M. Terentius Varro, M. Petreius, and L. Afranius were defending the cause of Pompey. Within forty days Caesar forced first Afranius to surrender at Octogesa, on the Ebro, and then Varro. Massilia, too, offered resistance to the besieging army of Caesar's generals, but likewise surrendered after the end of Caesar's Spanish campaign, 49 B.C. Meanwhile Curio had left Sicily and embarked for Africa, where he encountered the Pompeian Attius Varus, and his Numidian ally, King Juba. Curio, at first very successful, was finally surprised and beaten by Juba. Caesar, now dictator, determined to meet Pompey in the Balkan peninsula. Pompey had gathered an army of eleven legions, consisting of mercenaries and soldiers of nearly all Mediterranean nations, and, moreover, controlled with his navy the Ionian Sea. Caesar embarked at Brundisium, towards the end of

49 B.C., and landed at Palaeste with six legions. Dyrrhachium, which he wanted to occupy, had been already garrisoned by Pompey, who kept Caesar in check during the whole winter, 49-48 B.C. Caesar, who met with grave difficulties in providing for his army, left for Apollonia, and then entered Thessaly. Here he manœuvred the reluctant Pompey into a battle near Pharsalus, on the left side of the river Enipeus (now Kutchuk Tchaffnarli), August 9, 48 B.C.[1] The battle ended in the complete defeat of Pompey, who fled first to Mytilene, then to Egypt, where he was assassinated, aged 58 years, at the command of the guardians of the son of the very Ptolemy Auletes whom he had helped to his throne. So ended a life full of the greatest promises and the most startling successes. Caesar, who at once followed Pompey, arrived in Egypt with a handful of men, and on learning of the fate of his opponent, whose head was brought him, he was overpowered with emotion. In his soul there was no room for petty vindictiveness. He had not even informed the Senate of his victory at Pharsalus. In Egypt he came very near falling a victim to revolts raised by the Alexandrians and other Egyptians (called the Alexandrian War), who resented his conduct towards them. Mithridates of Pergamum came to his succour, so that Caesar, charmed with the country, and still more with the graces of Cleopatra, sister to King Ptolemy, spent nine months in Egypt, which he finally gave to his love and her brother. In the summer of 47 B.C., Caesar, after a short trip

[1] With regard to Caesar's war in the Balkan peninsula, we follow mainly the work of the French *Mission de Macédoine*, published by Léon Heuzey (Paris, 1886) under the title, *Les opérations militaires de Jules César.*

through Syria, attacked the aggressive Pharnaces, son of Mithridates VI., in Pontus, defeating him near Zela on the 2nd of August. The campaign was so rapidly finished that Caesar sent a despatch to the Senate of Rome containing only the three words, "*veni, vidi, vici.*" He now repaired to Rome, loaded with vast amounts of money levied on the eastern cities. In Italy the praetor, M. Caelius Rufus, together with Milo, the murderer of Clodius, had, in 48 B.C., fomented the general outcry for *novae tabulae*, or the abolition of debts. In 47, P. Dolabella followed the example of these agitators, who had been meanwhile killed, and Mark Antony, Caesar's substitute in Italy, was compelled to resort to the utmost rigour for the suppression of the tumultuous people. Even Caesar's soldiers in Campania began to be mutinous. The victor of Pompey arrived in Italy in September 47 B.C., and soon restored order both in the camp and amongst the distressed citizens of Rome. The most extravagant honours were now heaped upon him: he was made dictator for the third time, and consul for 46 B.C.; he was given the decision over war and peace, and the distribution of the provinces to the praetors;[1] and since he refused to celebrate the triumph over his fellow-citizens whom he defeated at Pharsalus, he was subsequently given, together with three other triumphs, the triumph over King Juba, against whom he only prepared a campaign.

Caesar could not tarry very long in Rome. The remains of Pompey's great fleet had been collected

[1] It is doubtful whether Caesar was then, or even afterwards, invested with the tribunician power for life. See the very able arguments of L. Wiegandt, *Caes. u. d. trib. Gewalt* (Dresd. 1890).

by his sons, Cneius and Sextus, and by M. Petreius, T. Labienus, Metellus Scipio, M. Porcius Cato (Uticensis), and others, who from their head-quarters in Roman Africa were infesting Sicily and menacing Italy. On December 28, 47 B.C., Caesar landed near Hadrumetum, and commenced the "African War." Up to the 27th of January 46 B.C. he kept, and with great effort too, on the defensive. At that date his small army was reinforced by the XIIIth and XIVth legions, and he proceeded on the offensive. His antagonists, most efficiently aided by Juba and by the singular skill of Labienus, Caesar's old disciple, rendered Caesar's victory very difficult. The old luck of the imperator did not, however, desert him in Africa either. Juba's help was made largely inefficient by attacks on his realm directed by the Mauritanians and the old Catilinarian, P. Sittius, who had maintained himself at the head of outlaws and desperadoes in Africa for over sixteen years. The main encounters between Caesar and the Pompeians were near Acholla, Thysdrus, and Uzitta. At last Caesar completely routed them at Thapsus, April 6, 46 B.C. In that fearful battle, quarter was neither given nor taken. Moreover, Sittius deprived Juba of his realm, and the Numidian king first killed Petreius in a duel, and then bade one of his slaves to kill him. Cato, Roman antique rigour incarnate, was besieged at Utica. Unable to maintain himself, and despairing of his fatherland, he committed suicide after having read in Plato's *Phaedon* on the immortality of the soul.[1] Caesar regretted his death.

[1] The topography of the African war, carefully stated in the work bearing the title of that war, and written probably by one of Caesar's adjutants, has been traced to its modern equivalents in the valuable treatise of

He would have forgiven him, as he systematically forgave nearly all his defeated antagonists. On his return to Rome he was the recipient of royal honours and the dispenser of princely liberalities. He was made dictator for ten years, and *praefectus morum* for three; in the Senate he was always to vote first, and his curule seat was to be near those of the consuls. He celebrated four triumphs in succession, during which 2822 golden crowns weighing 20,414 pounds were shown to the gazing multitude, whom Caesar treated at 22,000 *triclinia* or dining "sofas." Moreover, he presented every one of the people with 100 denars and with oil and cereals, each of his soldiers or officers receiving 5000 denars, or multiples of that sum, respectively. The unique successes he had achieved in all the then known parts of the world, and over barbarians as well as over Asiatics and Romans, did not intoxicate his great mind at all. He forthwith set, not to proscriptions and similar absurd atrocities as did his forerunners, but to the reform of the Roman empire on the basis of a profound alteration both in the political institutions and civilisation of Rome. The city-state was to exist no longer. The imperial State commenced. All the laws, and still more the contemplated measures of Caesar, had in view the whole of the Roman realm, rather than the city of Rome, or Italy. His veterans were given homesteads; the distribution of cereals fixed; the incumbents of the office of praetor, aedilis, and quaestor multiplied; the calendar, by the introduction of the Egyptian solar year, reformed (Julian calendar); and Hellenic culture

Ch. Tissot, *Recherches s. l. camp. de C. en Afr.* (Mém. de l'Instit. *n.* 31_2, 1-61, 1884).

invited to permeate the whole intellectual life of the empire. The civil war was, however, not yet terminated. In Syria, Caecilius Bassus raised a rebellion, helped by Arabs and Parthians; in Spain, where the legates of Caesar had been unable to hold their own against the revolting Pompeians, 49-48 B.C., the sons of Pompey again forced Caesar to renew the campaign in the winter of 46-45 B.C. At first the struggle turned on the possession of Ulia, Corduba, Ategua, and other towns; on March 17, 45, Caesar met the Pompeians at Munda, and the exceedingly bloody battle was at last decided in his favour towards evening. Cneius Pompey, Labienus, Attius Varus, and most of the Pompeians lost their lives. Sextus Pompey escaped to the Lacetani. This final victory placed Caesar practically above all the still remaining powers of the Roman republic. He was created *dictator*, *imperator*, and *praefectus morum* for life, and was given the right of appointing all the magistrates. Of the latter right he made no formal use; no candidate discountenanced by him having any chance of success. He was also accorded the right of wearing on his sparsely covered head a wreath of laurels; divine honours were done to his statues; oaths were taken by his name; and the name of the month of Quinctilis was changed into Julius (our July). The home affairs, enormous as was their pressure, and unremitting as was his attention to them, did not divert Caesar's attention from the foes infesting the borders of his realm. He contemplated and prepared a three years' campaign against the Parthians. It was not to come off. At the height of his unparalleled career, and when he was sometimes overheard to say, as if to himself, "I have

lived enough," he was felled by conspirators, who were short-sighted enough to cherish the hope of saving the long deceased republic by stabbing the greatest Roman of his time, and one of the greatest men of all history. The conspirators, about sixty, were mostly discontented Caesarians. Their leaders were D. Brutus Albinus, C. Cassius Longinus, and the dreamer-idealist, M. Junius Brutus the younger, Caesar's favourite. While Caesar, seated on his chair in the Senate, was speaking to one of the conspirators, who asked a favour of him, the others surrounded him, kissing and embracing him so as to feel whether he had any weapons about him. Suddenly Tillius Cimber tore off Caesar's toga, and at this concerted sign P. Casca and the others rushed for him, stabbing him all over his body. The imperator at once tried to defend himself with his writing-rod, but failed. Without crying for help from the stunned senators present, he sank dead at the statue of Pompey. His luck intended, as it were, to follow him close to the grave; for, of the three-and-twenty stabs he received from his assassins, only one was subsequently found to have been fatal. The senators fled; blank confusion filled the large hall; and the lonely corpse of the great man was carried off by three slaves. March 15, 44 B.C., is the date of that ever-memorable event.

In one of Goethe's remarks the assassination of Caesar is called the most preposterous deed in history. The political intention of the conspirators, if they had any, was indeed completely frustrated. The republic they thought of re-establishing had no living roots in the hearts of the people. Immediately after the outrage the citizens withdrew to

their houses, and both perpetrators and the population in general seemed to evince nothing but fear. Mark Antony was the only one who had a definite aim in view, and he acted accordingly. He abstained from inciting the Romans against the murderers, who had fled to the Capitol, fearing, as he did, lest the street fights thus arising should give M. Aemilius Lepidus a chance to enter Rome as umpire, with his army encamped near the city. Antony contented himself at first to secure the exchequer of the State, and the moneys of Caesar. On the 17th of March the Senate, chiefly by the influence of Antony, confirmed all the decrees of Caesar, both published and unpublished ones. At the same time general amnesty was accorded. At Caesar's funeral, Mark Antony read to the assembled people the imperator's testament, in which the citizens were cared for in the most touching fashion, and then roused them to wild fury against his murderers. Then Antony commenced endless manœuvres in the Senate, at the *comitia*, and in the camps of the veteran legions in Campania, by means of which he obtained the legions camping in Macedon and the province of Gallia Cisalpina. By the end of April a new bidder appeared amongst the auction sharks of the Roman Empire—Caesar's adopted son, C. Julius Caesar Octavianus, a youth of twenty, with the cold astuteness of a man of seventy. Being Antony's antagonist on account of the latter's withholding from him his father's inheritance, he levied troops against Antony, and gulling both the legions and the Senate as to his true intentions, he led the former against Antony, then at Mutina. During the conflict between Octavianus and Mark Antony, Cicero was again the principal

statesman at Rome, where, from September onward, he arraigned Antony's subversive tendencies in several most violent speeches (the *Philippics*). In April 43, Mark Antony, who had several times refused to come to terms, was beaten in two battles near Mutina by the consul Hirtius and Octavian. The Senate, totally misconstruing Octavian's character and aims, wanted to shelve him. Caesar's heir did now no longer hesitate to unmask. He bore down upon Rome at the head of eight legions, had himself elected consul, passed the lex Pedia (named after his colleague) for the punishment of his father's murderers, and led his army against Antony and his allies, M. Aemilius Lepidus, C. Asinius Pollio, and L. Munatius Plancus. Instead, however, of combating these "enemies of the fatherland," as the Senate had called them, he concluded with Antony and Lepidus a triumvirate (called the second) for five years, to the effect that Antony should obtain Gallia Cis- and Transalpina; Octavian, Africa, Sicily, and Sardinia; and Lepidus, Spain and Gallia Narbonensis. Moreover, Antony and Octavian were to lead the campaign against the armies of M. Brutus and C. Cassius in the Balkan peninsula, while Lepidus should stay in Rome. This triumvirate, *reipublicae constituendae*, as said its official mock title, was confirmed by a law, and it therein differed entirely from the first. The triumvirs, who had three-and-forty legions at their disposal, were now the sole rulers and governing powers in the western half of the Empire. They forthwith proceeded to put hundreds of senators and about two thousand knights on the ghastly proscription lists. The estates of the proscribed (amongst whom were L. Paullus, brother to

Lepidus; L. Caesar, uncle to Antony; and other relatives of the raging triumvirs) were confiscated, and their persons dogged by informers worse than bloodhounds. Amongst the victims was Cicero. He faced the assassins, who overtook him in the country, with the calm serenity of a true philosopher; and his death proved the sterling mettle of his great character. In fact, the mute oratory of his last minutes enhances for ever the splendour of his incomparable speeches.

The triumvirs had, as we have seen, restricted themselves to a distribution of the western countries only. For the eastern provinces of the Empire were, during that time, in the power of M. Brutus and C. Cassius, who by persuasion and force got together nineteen legions, recruited from garrisons and corps in Illyria, Macedon, Asia Minor, Syria, and Egypt. The Senate showed very little animosity against Caesar's murderers, whom they granted provinces, and also permitted to carry on campaigns against Rhodes and Lycia, 43 B.C., etc. When finally Antony and Octavian crossed over to Macedon, Brutus and Cassius met at Sardes, and from there repaired to Philippi in Macedon. There the armies of the two triumvirs met them, and in spite of a victory won by Brutus in the first encounter, defeated Cassius as well as Brutus, who both ended by suicide in the autumn of 42 B.C. Brutus seems to have been a sincere republican; Cassius would have eventually added another Antony to the number of the saviours of the "respublica." Whatever, therefore, the biographical interest in the "republicans" of that time may be, their historical importance is small. Even Sextus Pompeius, who after the battle of Munda held

his own in Spain against Asinius Pollio, as later on (42 B.C.) in Sicily, which he captured by surprise against Octavian, has only an incidental significance. Antony, the main victor at Philippi, and Octavian now divided the Empire between themselves, throwing Lepidus a mere sop by giving him "Africa." Antony repaired to the Orient with a view of fleecing allies and foes, but at Tarsus he met that *femme fatale*, Cleopatra, who robbed the great robber even of that manly directness of determination which had raised him over all other competitors for rule. Steeped in all the culture of Greece, and mistress of all the graces of conversation and coquetry, she charmed every manliness out of him. The Egyptian snake smothered the Roman bull in her coils. Octavian now began to soar above the rest of possible Caesaroids. About 170,000 veterans were expecting to be given lands, and the distributions, dispossessing as they did thousands of legitimate owners, threw all Italy into a condition of anarchy. L. Antonius, brother to Antony, and Fulvia, the latter's wife, a virago and Megaera, who practically managed affairs on her own account, now wanted to force Octavian to leave the assignations of land to them, 41 B.C. Octavian besieged them in Perusia, after having detached them from their confederates, and forced them, in the beginning of 40 B.C., to surrender. He now became lord of the whole western portion of the Empire. With Antony a new treaty of friendship was concluded at Brundisium, 40 B.C., and confirmed by a marriage between the now widowed Antony with Octavia, Octavian's sister. Sex. Pompey, who knew how to exasperate the people of Rome by capturing corn-ships bound for Italy, was given, in the

treaty of Misenum, 39 B.C., Sardinia, Sicily, Corsica, and Achaea (the Peloponnesus). Octavian, however, soon found means of making war (the "Sicilian War") on Pompey, 38 B.C., who at first completely worsted Octavian and his generals, but was in the end defeated in the naval battle off Naulochus, near Messana, by Octavian's admiral, Agrippa, 36 B.C. Lepidus, behaving first ambiguously, then treacherously to Octavian, lost his legions by defection through Octavian's briberies, and was forced to retire as a private gentleman, keeping the dignity of *pontifex maximus* to the end of his life. Octavian, now lord of six-and-forty legions, turned to the re-establishment of order and government, regulating the laws about debts, taxes, slaves, police for Rome, and similar administrative matters, and re-instituting Roman magistracies in many of their former functions. Meanwhile Octavian's relation to Antony had become more and more intolerable. As a brother he felt deeply offended by Antony's neglect of Octavia and idolisation of Cleopatra; as a statesman he could no longer brook Antony's wholesale donations of provinces and realms to Cleopatra and her sons. Antony's unsuccessful campaigns against the Parthians were also most irritating to the Senate. The crisis came in 31 B.C. War was declared, nominally against Cleopatra, in reality against Antony. The two hostile armies met near and off Actium, September 2, 31 B.C. After some encounters the decision was left, at the wish of Cleopatra, to a naval combat. The royal courtesan behaved like all courtesans.' She had no sooner noticed some advantages obtained by Agrippa, by means of his lighter vessels, than she suddenly

betook herself to a precipitate flight. The effeminate personage who used to be Mark Antony, as soon as he saw his love give him a wide berth, lost the brains he still possessed, deserted his loyal legions, and ran after the charms of the Egyptian Circe. His legions at Paraetonium disavowed the weakling. He fled to Egypt into the arms of Cleopatra, suffered a new defeat at Alexandria at the hands of Octavian, 30 B.C., and on learning (falsely) that Cleopatra had committed suicide, he too ended his life by suicide, dying finally in the arms of his paramour. The rather mature sorceress (she was near the forties) tried to play the old game on Octavian, but in vain. Octavian took no hint, and Cleopatra died, it is said, by placing an asp on her still beautiful bust. Her son Caesarion, by Julius Caesar, and the eldest of her sons by Antony, were executed. At the head of the Egyptian administration a Roman *praefectus* was nominated; the treasure in the exchequer of Alexandria was appropriated by Octavian; and the eastern provinces were left pretty much in their old condition. Octavian was now the sole imperator of all the Roman legions; on August 13, 14, and 15, 29 B.C., he celebrated his triumph. He was four-and-thirty years old. So ended the civil wars, after having devastated countless cities, contaminated the very soul of Rome, and totally subverted her ancient government. The inheritance of the Gracchi, of Marius, Sulla, Pompey, Caesar, and Mark Antony fell into the hands of one who was equal to none of them, and inferior to all, excepting Marius and Mark Antony, in point of statesmanship. The world, made up chiefly of mediocrities, naturally favours mediocrity most.

Octavian disbanded all the legions except eighteen, providing for them by settlements and land-assignations. He also re-established the military discipline. Moreover, he formally resigned his power as *triumvir*, handing over the "*respublica*" into the "*arbitrium*" of the Senate and people of Rome.[1] The Senate, however, reinvested him with the chief command over the army, and the pro-consular power in all the provinces; moreover, Augustus retained the administration of Syria, Gallia, part of Spain, and a few minor provinces. The rest of the provinces were to be administered by the Senate. On the 16th of January 27, the Senate conferred upon Octavian the chiefly religious title of "Augustus" (in Greek σεβαστός), and the official commencement of Roman Caesarism is therefore conveniently placed at that date. Augustus (for of all subsequent emperors Octavian is Augustus *par excellence*) contemplated the conservation of nearly all the previous Roman *res publica* in form, and much of it in matter, while superadding to the old institutions the new function of a *princeps*. This double rule of Senate and Princeps has been fitly styled *Dyarchy*. Mommsen, who introduced this term, has endeavoured to reconstrue the precise constitutional competence of the Roman *Principes*, previous to Diocletian (284 A.D.), viewed as an office, if the highest, of the Roman State. In this very arduous task he has had no predecessor (at least none in modern times), and has as yet no superior. We shall therefore, in the main, follow his exposition of the *principatus*.

[1] *Monumentum Ancyranum* (Octavian's own "political testament," as we should say now), 6, 12: "*in consulatu sexto et septimo . . . rem publicam ex mea potestate in senat[us populique Romani a]rbitrium transtuli.*"

This will be done in a separate chapter on the constitution of the Roman Empire.

Augustus at once started on the realisation of popular and useful administrative measures, by which he contented the material and intellectual needs of the war-sick *bourgeois* of Italy and Rome. For, as has invariably been the case, all absolute monarchs make up by paternal and efficient administration for what they undo and stifle in political liberties. Prussia has a far more efficient "administration" (*Verwaltung*) than England; Austria is in that respect considerably superior to Hungary. Accordingly Augustus, a *chef d'administration*, to whom Sully or Colbert would have paid as much as 25,000 francs a year, sedulously worked at bringing about good roads, prompt police forces, fire-engines, commodious public buildings, and splendid palaces (such as the *Forum* of Augustus, the *Porticus* of Octavia, and the *Thermae* of Agrippa), and laws holding out various encouragements to the *bourgeois* for the propagation of their useful race (lex Julia et Papia Poppaea, 9 A.D.). In thus caring for the material ease of the good *bourgeois*, he did not neglect their mental proclivities either. Big libraries of Latin and Greek works (such as the Palatina, and that in the Porticus of Octavia) were established. History, poetry, and rhetoric were "bemothered," to talk German, tenderly; and the "Augustan age" of literature has been widely, nay universally, proclaimed to have been the golden age of the literature, as it certainly was that of the writers, of Rome. The peoples of the Empire, in whom all political impetus seems to have died out completely, gratefully accepted all these boons at the hands

of their benevolent master, and during his reign of over forty years there were no serious attempts at rebellion or resistance. Augustus had nevertheless a good many border wars on hand. The Parthians he soothed, since he could not vanquish them; and the Euphrates was agreed as the limit in the East. The Arabs likewise had to be left alone. The ever-obstreperous Iberians and Gauls were coerced; the former from 26 to 19 B.C., the latter nearly all during the reign of Augustus, whose generals in Gaul were, chiefly, Drusus (subsequently surnamed Germanicus), his stepson, and Drusus' brother, Tiberius. In 27 B.C., Augustus divided Gaul into three imperial provinces—Aquitania, Gallia Lugdunensis, and Belgica, and one senatorial, Narbonensis. Their unity was kept up by their common "altar of Rome and Augustus" at (modern) Lyons. They were, moreover, divided into sixty-four *civitates*, or administrative districts. Tiberius and Drusus also conquered Rhaetia and Vindelicia (Tyrol and part of Bavaria), 15 B.C.; and also Noricum (Carinthia, Styria). Tiberius likewise completed the conquest of Pannonia, 12 B.C. to 9 A.D. (or Hungary, on the right-hand side of the Danube); and the possession of Macedon, ever infested by the marauding barbarians, was rendered safer by the conquest of the territory now occupied by Servia and Bulgaria, then called Moesia, probably before 6 A.D. Thracia remained a separate kingdom under Roman protection. Thus the Danube, in her entire course, became the northern limit of the Empire, as the Euphrates was its eastern. The Romans were rather anxious to make the Elbe river the 'limit of their dominions in *Germania*, the innumerable ferocious tribes of which were near and dangerous allies of

the Gauls. However, this proved to be impossible. The campaign against the powerful Maroboduus, king of the Marcomanni, whose chief seat was then in modern Bohemia, had to be abandoned on account of a fearful rebellion of the Pannonians and Dalmatians, who could in the end (9 A.D.) be reduced to submission only by summoning together nearly the whole of the available military force of the Empire. Some of the peoples of *Germania*, under the leadership of Arminius, the Cheruscan chieftain, availing themselves of the troubles in Pannonia, met three legions under P. Quinctilius Varus, in the Teutoburg forest (probably near Barenau, 9 A.D.), and in a four days' battle completely annihilated them. This famous victory, which filled Rome with great apprehensions of a rebellion in Gaul, thrust back the limit of the Empire to the river Rhine. The dread of the invasions of the barbarians, which has played such a decisive *rôle* in ancient history, was not the least of the causes of the unanimity with which the peoples of the Mediterranean States acquiesced in Caesarism. These invasions were, in the latter half of the last century B.C., the only great danger threatening the security of the Mediterranean nations. Caesarism, in taking upon itself the defence of *all* the civilised nations of Europe, was, for that reason alone, a welcome institution to peoples who were too keen on the enjoyment of material and intellectual pleasures, and too individualistic to join in powerful leagues against the tribes of Northern and Central Europe, or those of Africa. In the demesnes of the Roman Empire proper peace reigned supreme. Arts flourished, science prospered, commerce advanced. Political ideals there were none;

ease and comfort were the general craving of the masses. Under such circumstances a ruler like Augustus was the very man in whom everybody acquiesced willingly. He knew his time; and consequently he was its exponent as well as guiding star. As an individual he was a person of many fascinating qualities. As an historical personage he is interesting more on account of his position than of his merits. He died, nearly seventy-seven years of age, on August 19 (the month named after him), 14 A.D. He was followed by Tiberius, his adopted son. The character of this emperor (although he never accepted the title of *imperator*, and strenuously opposed his being given divine honours, at least in the western provinces and in Italy) is still, to some extent, an enigma. The history of his reign, as given by Tacitus, is the image of a most consummate tyrant; callous to nearly all humane sentiments, astute and dissembling beyond credence, cruel to excess, libidinous and vindictive like a eunuch. Tacitus himself lauds the first decade of his reign; and modern objective criticism has learned how to keep cool even in the presence of Tacitean phrases.[1] Tiberius was, even much more than Augustus, a wise and careful *administrateur*. His economy in public finances, the prompt succour he gave to earthquake-shattered towns, to the provinces generally, and to the poor or the weak, rendered his

[1] Napoleon I. used to impugn Tacitus for the injustice he had done to Tiberius. Merivale, Duruy, Mommsen, and Ranke also extenuate the condemnation of the Roman historian. G. R. Sievers (*Tacitus et Tiberius*, Hambg. 1850-51), L. Freytag (*Tiberius und Tacitus*, Marburg, 1870), and A. Stahr (*Tiberius*, Berlin, 1863), have undertaken the defence of Tiberius, *ex professo*. A full bibliography and discussion of the subject will be found in Ignio Gentile, *L'imp. Tiberio secondo la moderna critica storica* (Milan, 1887). Compare also E. S. Beesly in *Fortnightly Review*, viii. 635; ix. 14.

reign a blessing to the Empire. In tolerating the ever-growing influence of L. Aelius Sejanus, his *praefectus praetorio*, who aspired to the principatus and did not recoil from the foulest crimes, Tiberius, although Sejanus met, in the end, with due retribution, created a precedent which was to have the most incisive influence on the position of the subsequent *praefecti praetorio*, who were, as a rule, taken from the equestrian order. In the year 26 A.D., Tiberius left Rome, which he never saw again. In his last years, the imperial eccentric lived chiefly on the picturesque isle of Capri. He died March 16, 37 A.D. He was succeeded by Gaius Caesar, surnamed Caligula, his adopted son, a son of Germanicus (brother to Tiberius) and Agrippina. At the beginning of his reign the young Caesar was all benignity and goodness to the people, the Senate, the provinces, and individuals. The tyranny of Tiberius, in the latter years of his reign, seemed to give place to a new golden age. This, however, did not last very long. Caligula, after squandering away the immense treasure left by his thrifty predecessor, rapidly changed into the absurd fiend, whose follies are unworthy of record. He was assassinated by the Praetorian bodyguard, January 24, 41 A.D., after having perpetrated nameless crimes against religion, common morality, and common sense. The apathy of the Romans to the severe tasks of self-government was so great that they readily accepted as successor of Caligula the uncle of the latter, Tib. Claudius Germanicus, a learned divine, who was swayed by freedmen, such as Narcissus and Pallas, and by his wives, the first of whom, Valeria Messallina, was one of the most

profligate women known to the scandal-mongers of history; and the second, Claudius' niece, Agrippina, scarcely less profligate, was moreover so ambitious that, in order to secure the *principatus* for her son by a former husband, L. Domitius, whom Claudius had adopted, she poisoned the imperial antiquary, who had enriched his people with three new characters of the Latin alphabet, but had, in spite of the annexation of South England, Mauretania, Judaea and Thrace, added little to the glory of Rome. The provinces had liked the man and his benignant reign.

He was succeeded by his adopted son, Nero Claudius Caesar, a youth not quite seventeen years old. His mother had given him as tutor the philosopher L. Annaeus Seneca, who, together with Afranius Burrus, the grave *praefectus praetorio*, governed for five years with considerable wisdom and efficiency. Nero was, however, amenable to nothing serious, either in politics or in private life. He is the archetype of the infatuated dilettante. He dabbled in literature, music, sports and games and athletics, until he made himself the laughing-stock of the Hellenes, and the mockery of the Romans. In blood alone did he not dabble—he plunged his fleshy arm into it up to the shoulder. When eighteen years old he had Claudius' son, Britannicus, assassinated; at twenty-two the monster dispatched his own mother, at the urging of his wretched paramour, Poppaea Sabina; at twenty-five he caused (very probably, at least) the death of the meritorious Burrus, replacing him by the fiend Sophonius Tigellinus; in the same year he had his wife Octavia, the daughter of Claudius, assassinated; at twenty-seven, Rome was largely destroyed by a

terrible fire, the laying of which was generally imputed to Nero; at twenty-eight he forced his teacher Seneca to commit suicide. These, and countless other atrocities, finally unbalanced even the senators of Rome. Provincial generals openly revolted from the emperor; the Senate outlawed him; and Nero found at last the courage of asking one of his followers to kill him, June 9, 68 A.D. During his reign there were also campaigns in various distant provinces.[1] In him died the last scion of the Julian house, which began with an extraordinary genius, and ended with an extraordinary fop. With the exception of Augustus and Tiberius, the Julian emperors are no historical personages; and it is due only to a perverse and morbid interest in the follies and vices of high-placed persons that much attention is still paid to brutes such as Caligula, Claudius, Nero, and hysteric *femelles* such as some of the women at the Roman Court. The only important series of facts during the dyarchy of the Julian house are: (*a*) the growth of the imperial administration, including therein the growth of Roman private law; and (*b*) the numerous campaigns made against all the barbarians invading the borders, and frequently menacing the substance of the Roman Empire. In Gaul; in Britain (where the rebellion of Caratacus, and the still more formidable one under the heroic queen Boadicea, were put down; the former in 51 A.D., the latter in 61 A.D.); in Pannonia, and on the coasts of the Pontus Euxinus; in Armenia and Parthia; in Judaea (where the rebel Jews were very successful, and could be reduced to partial sub-

[1] Nero too has been "whitewashed" by various writers, the most interesting of whom is G. H. Lewes, intellectually the Cardan of the last century, in his article in *Cornhill Magazine*, viii. p. 113. See also E. O. Fountain (1892), *A Defence of Nero* (a lecture).

mission only by Nero's general, T. Flavius Vespasianus, 67 and 68 A.D.); in Mauretania; and in other border lands, the inroads or rebellions of the barbarians were almost constant. The Roman legions were not unfrequently severely defeated by the barbarians; and, generally speaking, the successes of Rome were owing, as have been the successes of nearly all civilised conquerors of uncivilised nations, to the internal dissensions of the latter rather than to their own military superiority.

From June 68 to June 69 the Empire saw three emperors successively fail in maintaining the throne of Augustus. They were Ser. Sulpicius Galba, M. Salvius Otho, and A. Vitellius, all of them originally generals in the provinces. They all died by force, and the *principatus* fell to Vespasian, July 69 A.D.; and through him to the Flavian house. The wary old soldier at once took up the name Caesar as part of his titles, and thus built up a dynastical connection with the house of Caesar. A *lex regia* conferred upon him all the privileges and constitutional rights of the Julian dynasty.[1] Vespasian was rigorous, methodical, thrifty, and thoroughly matter-of-fact. He re-established the discipline in the army, and regenerated the Senate by admitting into it good and painstaking citizens. The rebellions of the barbarians continued under his reign as well; the most noteworthy of them was that headed by Julius Civilis, and supported by the tribes of the Lingones, many Belgae, and the Treviri. It was quelled by Petilius Cerialis, 70 A.D. In the same year Vespasian's son took the last refuge of the rebel Jews, Jerusalem. The siege lasted for over four months;

[1] *Corp. Insc. Lat.* vol. vi. No. 930 (p. 167).

and the Jews, although miserably lacerated by internal feuds, offered under their leaders Eleazar, son of Simon, John of Gischala, and Simon, son of Giora, the most desperate resistance to the four legions of Rome (the Vth, Xth, XIIth, and XVth, besides the corps of the allies) and their formidable battering-machines. First the famous temple was taken and burnt, August 30, 70 A.D. At last, after the still unyielding Jews had passed through all the horrors of famine (a famishing mother is said to have eaten her own babe), their last vantage-ground, the upper town, fell into the hands of the infuriated Romans, who mercilessly slaughtered the aged, sold into slavery the young, and completely sacked and destroyed the town, September 26, 70 A.D. A few towers, one of which (the tower of Hippicus), together with part of the western wall enclosing the temple ("Kotel Hamearaba" is its present name), is still extant, was all that the rigour of Titus, whose numerous offers of negotiation had been scornfully refused, left of ancient Jerusalem. The destruction of the capital of Judaea, and of the temple, this the religious and political centre of all the Jews scattered over the vast Roman Empire, put an end to their national independence, and, together with the distinctive tax thenceforth levied on the Jews in the Empire, has in its ultimate effects more than any other fact shaped and moulded the character and tendencies of Hellenistic, mediaeval, and modern Jews. Their importance in the *social* history of Europe has, ever since that date, been very considerable; and just as the orthodox among them do not cease after over 1800 years to mourn the fall of their capital, and to execrate annually in solemn liturgy their "dire" victor; even

so have the effects of that fact, insignificant as it may have appeared to the Romans, powerfully told on the institutions of peoples separated from ancient Rome by centuries or vast distances.

Vespasian riveted the provinces and the territories under Roman protectorate (chiefly kingdoms) more closely together; Achaea, too, losing the "liberty" accorded it by one of Nero's freaks. The Spanish communities were given the *jus Latii* (*municipia Flavia*); so also the Helvetians, and other regions near the lower course of the Danube.[1] Thereby Vespasian, and his son Titus, who was practically, if not legally, his colleague, have, like many of the subsequent emperors, acquired historic merits in the propagation of Hellenic-Roman culture in regions which without them would have continued for untold centuries in the mists of incipient culture and mental indolence. Italy was freed from levies of troops; in other words, Italy abdicated from its historic rule. The Senate at Rome, too, sank to a mere instrument of Vespasian; and the stern imperator speedily crushed a republican movement headed by the senator Helvidius Priscus. On June 23, 79 A.D., Vespasian died, in a standing position, it is said, in order to die worthy of his "divine" rank. He was followed by his son Titus, called the "delight of humanity"—such being the happiness felt by the people of the Empire during the two years of his reign. It was shortly after his accession to the *principatus* that three Campanian towns,

[1] For the "Latinisation" (if we may use this term) of Spain, see Pliny, *Nat. Hist.* iii. 30 (or *sect.* 3), and Mommsen's essay on the recovered statutes of two of those Hispano-Latin communities (Salpensa and Malaca, in Baetica) in *Abh. d. sächs. Ges.* ii. 389, etc. For the Latinisation of the Helvetians, Mommsen in *Hermes*, xvi. 467-474.

Pompeii, Herculaneum, and Stabiae, together with their inhabitants, were destroyed by a sudden and fearful outbreak of Mount Vesuvius. This famous event has given us means of enlarging our knowledge of Roman antiquities very considerably; the excavations carried on systematically on the spot of the disaster having brought to light a great mass of authentic remains of Roman life and culture.[1] Titus was succeeded by his brother Domitianus, who has pretty generally been placed on a level with Caligula or Nero. However, it is certain that Vespasian's son and Titus' brother was neither a fool nor a fiend; at least not in the first ten years of his reign. His model was Tiberius, and although he failed in imitating his predecessor in great military achievements, suffering, as he did, various defeats at the hands of the Dacians under Decebalus, of the Marcomannians, and of other Germanic tribes: yet he copied Tiberius with marked success in the rigorous administration of the Empire, which he adorned with numerous splendid buildings. The bureaucratic discipline of the imperial hierarchy was, it is said, of exemplary severity under Domitian's iron rule; and accordingly the provinces felt contented.[2] He countenanced literature, and at the Capitoline Agonia which he established, and which, in imitation of the Olympian games, were to be held every fourth year, Greek and Latin works were admitted for competition. His numerous failures in rebutting the barbarians, as well as the lack of a son,

[1] There is a vast literature on the excavations, finds, explanation of ruins, etc., of the destroyed cities. See the work of F. Furchheim, *Bibliografia di Pompei, Ercolano, e Stabia*, 2nd edit. (Naples, 1891, 118 pp. 8vo), and A. Mau's later works.

[2] Suetonius, *Domit.* chap. viii.

finally so darkened his temper that he grew more and more suspicious and impatient of the successes of others. The despotism lurking, perhaps more in the abnormal position of an imperator than in the emperor himself, made itself increasingly felt; and finally he was assassinated by some of the courtiers, Domitian having never indulged in favourites, September 18, 96 A.D. He was the last of the Flavian house. The only considerable military achievement of his reign was the complete subjection of England and part of Scotland by Domitian's legate, Cn. Julius Agricola, from 78 to 84 A.D., a noble Roman, whom the art of Tacitus has immortalised in form of a biography.

Domitian's successor, M. Cocceius Nerva, died in 98 A.D., leaving the *imperium* to his adoptive son, M. Ulpius Trajanus, a Spaniard, who had won laurels as a general. Trajan ran up very strong lines of fortifications between the Danube and the Rhine against the Germanic tribes; and in two campaigns (101 to 102 A.D., and 104 to 107 A.D.) first conquered, then well-nigh exterminated, the Dacians, under their powerful king Decebalus, finally making their territory a Roman province, in which a great number of Roman emigrants and colonists were settling.[1] In the East, too, he was very successful against the Armenians, Parthians—conquering, as he did, the former,—and also Mesopotamia (115 A.D.). He even attempted to add India to the provinces of

[1] *Le souvenir de Trajan "est empreint partout* [in Rumania, which forms part of ancient Dacia], *dans la tradition, dans la langue, sur les monts, dans le ciel même. Ainsi la voie Lactée, c'est le chemin de Trajan; l'orage c'est sa voix; l'avalanche est son tonnerre; la plaine est son camp, la montagne est sa tour. . . . Il est le Roumain . . . par excellence."* A. Ubicini, *Provinces d'origine roumaine* (in Didot's *L'Univers*), vol. xxxix. part ii. (1856), p. 207 *a*.

the Empire. However, a vast rebellion, reaching from Parthia to the Cyrenaica, and fostered mainly by the indomitable Jews, who lived in all the intermediate countries, frustrated Trajan of much of his achievements. The war against the rebel Jews and their confederates had to be waged in various places at the same time, and its horrors were of the most excessive kind. For the Jews would not survive the loss of their national temple, and, like the Carthaginians, preferred extermination to the best of foreign rules. The synagogue at Alexandria, a building of unique grandeur and beauty, was burnt; and hundreds of thousands of Jews and Romans, in Asia, Africa, and Cyprus, slaughtered before the awful rebellion could be quelled.[1] Trajan died in Cilicia, in August 117 A.D. His ashes lie at the base of the magnificent column (Trajan's column) in Rome, which tells posterity at once of the great wars, especially those against the Dacians, and of the exquisite art of the times of the great emperor.[2] His successor was his cousin, P. Aelius Hadrianus, who was believed to have been adopted by Trajan as his son. It is difficult to describe Hadrian's personality, or to judge his activity adequately. From all that we learn about the fascinating emperor, we may readily believe him to have been one of the most remarkable of men, and one of the most efficient of rulers. We

[1] H. Graetz, *Geschichte d. Juden* (2nd edition), iv. pp. 125-130, giving references from the Talmud.

[2] About the Dacian wars especially we possess very few literary sources; and thus we are mainly thrown back upon the study of the exquisite column. Amongst the numerous works on the same, the following are particularly interesting and instructive: Fabretti, *De Columna Trajani syntagma* (Rome, 1683); Piranesi, G. B. L., *Trofeo ossia magnif. colonna*, etc, (Rome, 1770), consisting of magnificent designs; and the splendid work by W. Froehner, *La Colonne de Trajane d'après le surmoulage executé* [at the command of Napoleon III.] *en* 1861-62, *reproduite en phototyp. avec texte*, etc. (Paris, 1872), 4 vols. fol.

are told that he possessed nearly all the gifts that the human mind is capable of, excelling equally in all the arts and sciences, both military and civil, and other accomplishments. His memory was prodigious; his readiness of comprehension and repartee astounding; his physical elasticity and capacity for work almost unprecedented. He travelled through every one of the provinces of the Empire on foot or on horseback, never in a carriage; and bareheaded. He seemed to ignore fatigue, and appreciated the subtleties of Athenian or Alexandrian philosophers as keenly as he revelled in the beauty of landscapes and river scenes. One of the great Romans, he is at the same time quite modern in his ironical scepticism, in his restlessness, vague cravings, cosmopolitanism, and love of scenery. Imperial in the vastness and comprehensiveness of his legislation and administration referring to the thousand and one needs of the vast Empire and nearly every one of its parts, he was yet quite human in many of his failings. He alone of the emperors appeals to-day, as he appealed in his time, to the imagination as well as to the coldest political reasoning. It is a most regrettable loss both for history and psychology, that the still remaining sources of Hadrian's life are so very fragmentary. Inscriptions and coins help us to fix the dates of his interminable travels, the number of towns and temples he had built or rebuilt; they cannot satisfy our just curiosity for more complete knowledge of the marvellous Spaniard, who himself was the most curious and inquisitive of mortals.[1]

[1] Ferd. Gregorovius' *Der Kaiser Hadrian* (3rd ed. Stuttg. 1884) is a fair book, but not up to the importance of the subject. There is no other monograph. On the sources there is much in J. Dürr, *Die Reisen d. K. Hadrian* (Vienna, 1881), and especially in J. Plew, *Quellenunters. z. Gesch. d.*

Bent on keeping the Empire within the bounds of Vespasian, Hadrian did not engage in aggressive wars; and his chief campaigns are of a defensive or punitive character. Against the Caledonians he ran up a gigantic wall, about 122 A.D., the remains of which can still be seen. It was 73½ (English) miles in length, reaching from Wallsend to Bowness, was running parallel to a high entrenchment of earth, and fortified, moreover, by eighty castles, about a mile apart one from the other, seventeen *stationes* or fortified camps, and 320 small garrisoned turrets.[1] The campaign against the Dacians was less important. The greatest trouble was given by the rebel Jews, who, instigated by the great rabbi Akiba and the heroic Bar Kochba, defeated several Roman armies, held their own for over two years (132-134 A.D. (?)), and could be put down only after a war of extermination. Hadrian founded on (or near (?)) the remains of Jerusalem a Roman colony, taxed the Jews still more severely, and prohibited them from settling at Aelia Capitolina, once Jerusalem. The Jews thus ultimately thrust out from the place where alone they wanted to exist as a nation, became denationalised and alien to the commonwealths in which they lived. Their vitality was thenceforth pressed into two channels only: (*a*) the study and cultivation of a curiously subtle and profound, but narrow and

K. Hadr. (Strassbg. 1890), who declares Marius Maximus to be the chief source of Spartian's *Vita H.*, pp. 11 to 53. Nor is there much to be found in J. Centerwall's commentary to Spartian's Life of Hadrian in *Upsala Universitets Arsskrift* for 1870.

[1] For a notice of the older writers on that famous wall, see E. Huebner in *Corp. Insc. Lat.* vol. vii. (1873), pp. 104-106. Huebner gives all the Latin inscriptions that have been found about Hadrian's wall (pp. 107-165). Compare the useful work of Collingwood Bruce, *The Roman Wall* (Lond. 3rd ed. 1867, 4to); and J. R. Boyle in *Arch. Rev.* vol. iv. (1889).

in many ways morbid, system of theology and law, laid down, first in the *Mishna*, then in the commentaries (*Gemara*) thereto, the Talmud (Babylonian and Jerusalemitic), a mental ghetto full of pathos, penetration, weird lore, and uncouthness;[1] (*b*) international commerce and trade. Hadrian died, amidst great sufferings, in 138 A.D. About his legal and administrative reforms we shall treat in the history of the constitution of the Empire. It may be noted that no Assyrian or Egyptian king ever had so numerous and important buildings built as had Hadrian.

He was succeeded by his adopted son, T. Aurelius Antoninus Pius, whose reign of three-and-twenty years was mostly peaceful, excepting a few border wars, and several minor rebellions in Egypt, Judaea, Britain, and Achaea. Antoninus respected the Senate much more than did Hadrian, and in all his measures only desired to enhance the happiness of the Empire. In his adopted son and successor, Marcus Aurelius Antoninus, who, however, shared the imperium forthwith with his adopted brother, the dissolute Adonis, Lucius Verus, the pious emperor had provided for a ruler who united the noblest of hearts and the most cultivated of philosophical minds with a Roman energy of action. The latter was sadly needed, for the barbarians, who were almost incessantly attempting to seize upon the prosperous towns and provinces of the Empire, had become more unruly than ever. Wars against the Parthians, against the Marcomanni, Quadi, Jazygi, and other tribes camping round the upper and middle course of the Danube, were

[1] It is noteworthy that both Mishna and Gemara were, in spite of their extraordinary extent, handed down in the rabbinic schools of Jamnia, Nehardea, Susa, Pumpaditha, etc., by tradition only.

requiring the whole military resources of the Roman Empire. Pestilences were ravaging, and funds became so scarce that Marcus Aurelius was compelled to sell his jewels. L. Verus, who died in 169 A.D., had in spite of his debaucheries strenuously helped his colleague. Marcus Aurelius, constantly battling against the barbarians, died at Vindobona (Vienna), March 17, 180 A.D. His son, L. (later M.) Aurelius Commodus, who inherited none of the virtues of his father, and all the vices of his unworthy mother, Faustina, used his exalted position for nothing but shameless indulgence in orgies of the basest kinds. His main glory was to excel as a Herculean gladiator; the business of the State was done by officials, of whom Perennis, *praefectus praetorio*, was the most powerful. Commodus was assassinated, December 31, 192 A.D. The time from Nerva to the death of Marcus Aurelius is generally considered, and rightly so, as one of supreme happiness for the people inhabiting the Roman Empire. In fact, the blessings that peace can bestow upon mankind were all manifest during that time. Arts flourished, literature was widely appreciated, science cultivated, and commerce increasing. The imperial administration patronised everything and everybody, and a mild atmosphere of general comfort permeated the Empire. The blessings of peace are, however, limited. As we shall see later on, it was during that very period that the greatest of all changes was working its way into all the organisms of the Roman Empire—a change that in the end completely subverted the State, at the building of which the genius and character of the greatest of historic personages had been at work.

After the death of Commodus, the history of the

Roman Empire, down to 285, is little more than a most sanguinary tale—(*a*) of innumerable pretenders competing, warring, and assassinating broadcast for the throne of Augustus; (*b*) of interminable border wars against the barbarians, especially in Caledonia, Germany, and Parthia. Our sources do not furnish much material for the history of the Empire as such during that period; they record mainly dynastical stories that can afford us neither much gratification nor much instruction. We will therefore sum up the history of those times in a few statements. L. Septimius Severus, born near Leptis in Africa, after defeating various competitors for the imperium, became emperor in 193 A.D.; in 194 and 196 he defeated two other competitors, and so remained sole ruler. He fought successfully against the Parthians (201 A.D.), and in Britain (208-211), where he died at Eboracum (York), February 4, 211 A.D. He was succeeded by his son Caracalla (M. Aurelius Antoninus), who killed his brother Geta in the arms of his mother, and in order to redeem his extravagant promises to the Praetorian guards, had numerous rich citizens assassinated. For the same purpose he also conferred the Roman citizenship (about 212 A.D.) on all such free persons as were then living in the Roman Empire. The purport of his measure, the precise text of which is not known, was not what in course of time it proved to be, that is, a complete assimilation of the population of the Empire (over 100,000,000 people, including slaves), but a means of obtaining taxes from people hitherto exempt from such. He was rather successful against the Teutons and Parthians. His atrocities are now of no interest. The imperial beast was assassinated by his successor, Macrinus (M. Opelius), April 8, 217, near

Carrhae. After the four years' "reign" of the naughty boy Elagabalus (Heliogabalus), a priest of Bal at Emesa, and a relative of Severus, ending by the assassination of the young religious fanatic and voluptuary, 222 A.D., Severus Alexander, likewise a boy, was made imperator by the Praetorian guard. He, or rather his mother, Julia Mamaea, restored the importance of the Senate, and tried to bring about many a useful reform. His campaigns were also mostly in the East, against the Sassanidae (a Persian dynasty), the victors over the Parthians, and in Germania. Disliked by the troops, he was, together with his mother, killed by them, 235 A.D., and C. Julius Verus Maximinus, a Thracian, was made emperor. From 238 to 284 A.D. there were at least seventeen emperors and eighteen usurpers (the latter are the so-called "thirty tyrants"); and although some of the former, such as L. Domitius Aurelianus, 270-275 A.D. (who defeated the heroic Zenobia, Princess of Palmyra, and "Augusta" of the Orient, 272 A.D.), and M. Aurelius Probus, 276-282 A.D., were very remarkable rulers and great generals, yet the state of the Empire was one of utter confusion. The great number of usurpers of all nationalities ("tyrants," as they were called), elected either by provincial legions or the Senate, persecuted one another in long and ruinous wars. Pestilences, one of which lasted for fifteen years, 252-267 A.D.,[1] decimated the population of the Empire. Last, not least, the invasions of the countless tribes in the north, chiefly those of the Alemanni, Franks, Saxons, and Goths, were carrying dread and devastation to the very interior of the Empire. Rome was surrounded with a new wall, 271 A.D. In 267 A.D., Athens was taken

[1] Zosimus, i. 26, 37, 46; Zonaras, xii. 21.

by tribes coming from countries round the Black Sea. In addition to these inroads the Persians, now forming a powerful realm, menaced the eastern dominions very seriously. The Roman Empire seemed doomed. It found a saviour in the person of an Illyrian (from which nationality had come most of the emperors in the latter years of the Anarchy), C. Aurelius Valerius DIOCLETIANUS, 284-305 A.D. He firmly consolidated the absolute monarchy, and thus placed the government of the Empire, if not its prosperity, on a firm basis (see p. 304). The *imperium* he indivisibly shared with the "Augustus" M. Aurelius Valerius Maximianus, and the two "Caesars," Galerius Maximianus and Maximianus Constantius Chlorus. The Empire was divided amongst them; not the *imperium*. Diocletian kept the Asiatic provinces, with Egypt and Thrace; Galerius, the rest of the Balkan peninsula and the provinces of the Danube; Maximianus, Italy and Africa; Constantius, the western provinces. The emperors were very successful against the barbarians in Britain, Gaul, Africa, the Balkans, and against the Persians, whom Galerius and Diocletian signally defeated at Nicephorium, 297 A.D. Diocletian proved also a most able *administrateur*. He reformed the coinage, attempted to fix the prices of commodities and professional services,[1] and unremittingly worked at the healing of the wounds struck by the evil years preceding his reign. On May 1, 305, both Diocletian and Maximian resigned their office; and the former retired to the beloved cultivation of his cabbages at Salona in Dalmatia, where he died some years after. About his attitude to Christianity, see the next volume.

[1] By the *Edictum de pretiis rerum venalium* (*Corp. Inscr. Lat.* iii. p. 801).

Most of the valuable, nearly all of the contemporary, sources of the history of Diocletian have been lost; undoubtedly by having been wilfully destroyed by Christians, who execrated the memory of their stern persecutor. It is therefore impossible to give a chronologically consistent and full record of his reign. His supreme achievement, however, that is, the creation of the Roman absolute Monarchy, as opposed to the Dyarchy of most of his predecessors, is well known from sources which, owing to their technicality, have escaped the zeal of his enemies.

After five dynastical wars between the various "Caesars" and "Augusti" (of the latter there were no less than six in 307 A.D.), Flavius Constantinus, subsequently surnamed the Great, son of the above Constantius (who died at York, 306 A.D.), became sole emperor of the Roman Empire, 324 A.D.[1] Constantine continued, and still more elaborated, Diocletian's system of government, but adopted an entirely different attitude towards Christianity. Although no Christian himself until shortly before his death, in 337 A.D., he yet formally recognised Christianity as a religious denomination, placing himself at the head of the hierarchy. Against the barbarians he was successful, both in war and (still more) in peace, giving them, moreover, great opportunities of entering the civil and military service of the Empire. Another very incisive measure of Constantine's was the enlargement of the city of Byzantium to the position of the second capital of the Empire, under the name of Constantinople. This fact was big with a series

[1] The most noteworthy facts of those wars are: Constantine's victory over Maxentius at the Milvian bridge near Rome, 312 A.D.; and his victories over his co-Augustus, Licinius, at Adrianople and Chalcedon 323. Licinius, the last of Constantine's rivals, was killed in 324 A.D.

of historic events of the greatest importance. Byzantium, although a place of considerable influence commercially and otherwise for centuries before Constantine, only now commenced to shift the centre of gravity of the Roman Empire. Rome, which had gained its inter-European significance chiefly through its position in the centre of the Mediterranean States, now began to lose her old vocation, and the unity of European history gave way to a bifurcation, the effects of which may still be distinctly felt in the visible difference between the East of Europe, or the countries grown up under Byzantine influence, and the West of Europe, grown up under Rome—republican, imperial, and pontifical. Constantinople had no doubt a European vocation as a bulwark against Asia. It did, however, fall short of responding to its vocation as adequately and fully as did Rome. Failing in its task, it has, in the end, driven the main current of European civilisation, wealth, and power to countries far in the west and centre of the continent—to France, England, Germany.

From the death of Constantine to that of his son Constantius, in 361, the Roman Empire was again involved in dynastical wars between two of the sons of Constantine—Constans, Augustus for Italy and Africa, and Constantine, Augustus for the West; and between usurpers and Constantius, Augustus for the Orient, Constantine's third son, who finally remained sole emperor. In addition to these conflicts, there were religious dissensions between the followers of Arius and those of Athanasius; campaigns against the Persians; and warring with the restless barbarians. At last Julian, surnamed Apostata (nephew to Constantine the Great), who had been "Caesar" in Gaul,

and victorious over the Alemanni (battle of Strassburg, 357 A.D.) and other Germanic tribes, was raised by his troops in Paris, and soon after by general recognition, to the dignity of sole Augustus. He was a young man of thirty, full of noble ideals, ambition, love of work, and vigour. His childhood and first youth he had spent in gloomy solitude, and under the Damocles' sword of his cousin, the emperor's, constant suspicions. Christian dogmas and notions were instilled into his unwilling mind; but the secret study of the great Greek writers of pre-Christian times, and of the Neo-Platonists, had taken firm possession of his heart and intellect. He inwardly despised Christianity. The then prevailing distortion of Christianity could not but disgust a cultivated pagan. Julian had no sooner been elevated to the throne, than he commenced, amongst other innumerable reforms in all the branches of government, an open warfare against Christianity. His intention undoubtedly was to extirpate it from the hearts of the people and the institutions of the Empire. This he wanted to achieve, not by bloody persecutions (his most determined antagonists do not insinuate nor record anything to that effect), but by ridiculing and discrediting the new creed, and by re-establishing the old heathen cult in all its splendour. Personally, he was most fervently devoted to Greek mythology and Graeco-Roman religious rites. A host of philosophers and sham philosophers, whom the ascetic emperor invited to his Court, banishing, as he did, all frivolous retainers and superfluous Court servants, was to help him in the great work. The closed temples were to be opened; the demolished amongst them to be rebuilt. Christians were inflicted with many a law excluding

them from profitable positions, especially in the civil service and the scholastic professions; the Jews were freed from odious taxation, and generally encouraged. Christianity that, under Constantius, Julian's predecessor, had been on the high road to final success, seemed to be threatened with dissolution. No wonder that the fanatic indignation of the Christians vented itself in counter-threats, aspersions of the worst kind, and controversial works in answer to the writings of the witty and scathing Julian. This outburst of religious hatred has outlasted the short life of its subject; and in an immense literature, the orthodox have, from the times of the emperor to our own day, freely attempted to bury the memory of the imperial heathen under the rocks of contumely they flung at him.[1] Julian was certainly impolitic in his attacks on Christianity; but it may be, we take it, maintained that violent assaults on the emperor suffer no less from the desire of running in open doors. For there can be no doubt that the young enthusiast's aim was quite unhistoric, impossible, and unsuited for his time. Whether he was dogmatically right or wrong cannot be discussed here. Historically, he was wrong. The advance of Christianity could, by the middle of the fourth century A.D., no longer be stopped. As is pointed out in a subsequent chapter, the general need for a religion engaging the fervour and hopes of the faithful more intensely than did the rather artistic

[1] The extensive literature is given in A. Mücke, *Fl. Cl. Julianus*, 2 vols. (Gotha, 1867, 1869), and, of course, in U. Chevalier's *Répertoire, Bio-Bibliogr. s.v.* (see 2nd ed. 1905); see especially A. Harnack's article "Julian" in Herzog-Plitt's *Realencyklop. f. protest. Theol. u. Kirche* (Leipsic, 1880); the most exhaustive article on Julian (80 columns), by J. Wordsworth (1882), in the *Dict. of Christ. Biogr.* by Smith; and Dionigi Largajolli, *Della politica religiosa di Giuliano Imp.* (Piacenza, 1887), a very able work.

beliefs and private cults of the heathen Greeks or Romans, had by that time become irrepressible. Not to have noticed the impossibility of such a belated revival of Graeco-Roman rites and beliefs indicates, in Julian's own words, a feebleness of judgment.[1] So imperative had the rise of a new religion *par excellence* become, that Julian, desiring to make his neo-platonic mythology more acceptable to the public, blended it with much of the institutions and liturgy of the Christians. Nothing can bring home the utter difference of Graeco-Roman and Christian religion more directly than the observation of the changes that Julian was bound to make in his beloved religion for the sake of rendering it more popular. He

[1] "τὸ μὴ προϊδέσθαι τό τε δυνατὸν καὶ τὸ ἀδύνατον ἐν πράγμασι, τῆς ἐσχάτης ἀπονοίας ἐστὶ σημεῖον" (Suidas, *s.v.* ἀπόνοια, quoting from Julian, without naming the work).—Of Julian's work against Christianity, we possess only fragments of the first book, as found in Cyrill's work against the emperor, and collected, for the first time critically, by C. J. Neumann in *Scriptor. Graccor. qui Christ. impugnav. religionem quae supersunt* (Leipsic, 1880, fasc. iii. (first published)); translated into German by Neumann (Leipsic, 1880): *Kais. Js. Bücher geg. d. Christ.* Besides this, Julian's letters, especially 6-12 (8th spurious), 25-27, 31, 36, 37, 42, 43, 45, 49, 51, 52, 54 (spurious), 62, 63, 78, 79. The best edition of Julian's works is that by C. Hertlein, 2 vols. (Leipsic, 1875-1876); see also *Rivista di Filologia* (Torino, 1889, XVIIth year, fasc. 7 to 9, pp. 289-375), an elaborate article by D. Largajolli and P. Parisio, especially on the six new letters of Julian discovered, in 1884, by A. Papadopulos Kerameus in a convent on the island of Calche, and previously published in *Rhein. Mus.* vol. xlii. pp. 20, etc.; see, moreover, F. Cumont, *Sur l'authenticité de quelques lettres de J. (Univ. de Gand: Recueil de Travaux, publ. p. la Faculté de Philos. et Lettres,* 1889), who rejects seventeen of the eighty-five letters as spurious (Nos. 8, 15, 16, 19, 24, 28, 32, 34, 40, 41, 53, 54, 57, 60, 61, 67, 73). Compare especially, of recent works, H. Hecker, *Zur Gesch. d. Kaisers Julian* (Kreuznach, Progr. d. Gymn., 1886), for the time of Julian as Caesar in Gaul; W. Schwarz, *de vita et script. J.. i imp.* (Bonn, 43 pp. Diss. 1888, with valuable *fasti*); Th. Gollwitzer, *Observ. crit. in J. imp. contra Chr. libros* (Erlangen, 1886, 50 pp. Diss.); V. Schultze, *Geschichte des Untergangs d. griech.-röm. Heidenthums* (Jena, 1887, vol. i.). On the chronology of Julian's letters, compare Naber in *Mnemosyne*, vol. xi. (Leyden, 1883), pp. 387, etc. New unpublished fragments of Julian's writings, see in *Revue de Philologie*, xvi. pp. 161-166 (1892). Compare also the articles in *Philologus* 51, (1892), 623-653 (W. Schwarz), and *ib.* 561-580; *Hermes*, 27 (1892), 170-209 (v. Borries).

imitated the Christian hierarchy; an institution unknown to ancient Hellas and Rome. He wanted to introduce a religious ceremony of initiation for such as were to become members of the pagan religion; this too was only an imitation of Christian baptism, and utterly alien to Hellenic ideas. The clergy, he wanted to be totally separated from the State officials. Nothing could be more in keeping with Christian institutions; nothing could run counter to Graeco-Roman notions more diametrically. In attempting to blend incompatibles, Julian manifested the barrenness of his scheme. The high-minded youth stands out, nevertheless, as a character with a fascination of his own, from among the later emperors of Rome. He reigned only for eighteen months, falling by an unknown hand (perhaps that of a fanatic Christian) in his campaign against the Persians, June 27, 363 A.D., yet he has profoundly agitated the minds of over forty-five generations of theologians, philosophers, and historians.

After the short reign of Julian's successor, Jovian, the army at Nicaea elected Valentinianus, 364 A.D., who was the founder of a new dynasty. He vigorously maintained the integrity of the Empire against the barbarians, and against the usurper Firmus in Africa; and died 375 A.D. His successor for the West, Gratianus, was a zealous partisan of orthodox Christianity. In 382 A.D., he deprived the still officiating priests of the old Graeco-Roman religion of all State aid; and willingly yielded to Archbishop Ambrosius of Milan, one of the greatest churchmen of his time, in the Christianisation of the Empire. Valens, Valentinian's brother, on the other hand, who ruled in the Orient, was a zealous Arian; and warring

successfully against the heathen Goths (367-369 A.D.), he had the bulk of them converted to Arianism. This fact had far-reaching effects on the subsequent destinies of the Goths. In 375 A.D. the fearful Huns made their appearance, and this event is commonly recorded as the opening of the "Migration of Nations" (*Völkerwanderung*), a term which, originally introduced into history by Machiavelli in the first chapters of his *History of Florence*, has ever since kept its distinctive place as if it signified an event *sui generis*. However, nothing can be more evident than that the inroads of the Huns (a ferocious tribe of Central Asia) were only another of the invasions of barbarians, the immense number and effects of which we had to mention on nearly every page of Greek and Roman history, at least from the eighteenth century B.C. downward. The West Goths, flying from the Huns, implored Valens for permission to settle in the Balkan peninsula. Valens complied with their wish. However, his officials so exasperated the Goths that the latter revolted, and Valens, who met them at Adrianople, was defeated and killed by them, 378 A.D. Gratian now placed Theodosius, a Spaniard, and son of Theodosius, victor over the Picts, at the head of the Orient, 379 A.D. Theodosius (the "Great") coerced the Goths, making them auxiliary troops under the name of *foederati*. He had much trouble with usurpers in the West, two of whom, Maximus and Eugenius, even became Augusti; the former, 383 to 388, the latter, 391 to 394 A.D. From 394 to 395, Theodosius was sole Augustus. He died in 395 A.D., bequeathing the eastern half of the Empire to his elder son, Arcadius, the western to the younger, Honorius.

The history of the fifth century A.D. is not essentially

different from that of the preceding two centuries. The invasions of the barbarians and the rise of usurpers were in that century too the axes round which the most important events were turning. The invasions were an old category of the history of the Mediterranean countries, and the enterprises of the usurpers, or military adventurers, took the place of the conflicts of States and nations that filled the last two centuries before Christ. For of States there was left only the Diocletian bureaucratic State called the Roman Empire; and the nations at large had, in addition to social, commercial, and some slight literary interests, only one supreme interest at heart—Christianity. To the above two axes of rotation, this, the third agency, must be added, if we want to understand the period extending from the fourth to the tenth century. The invasions of the barbarians, a very old fact, had yet been totally altered in their character. For to the Hellenes and Romans before Christ, the barbarians appeared in the light of absolutely inadmissible aliens and enemies. The Graeco-Roman sentiment towards them was, in intensity at least, identical with the hatred which the Christians of the first three centuries after Christ entertained against heathens and heretics. Hence the invasions of the barbarians before our era, and for two centuries after Christ, were, it is true, big with great calamities; but they did not undermine the existence of Graeco-Roman commonwealths. On the contrary, they stimulated, as we have seen, those commonwealths to a more rapid and more elaborate development of their constitutions. The invasions of the barbarians from the third century A.D. onward, on the other hand, led not alone to single disasters,

but to a total overthrow of the ancient Empire. For the barbarians had by that time begun to assimilate themselves with the population of the Empire by means of accepting Christianity. And since no bond of community appealed to the then citizens of Rome more strongly than a community in Christ, their attitude towards the barbarians must have of needs changed altogether. They bore them that leniency which heathen Rome had evinced to the various creeds of the conquered nations. By thus admitting or tolerating huge numbers of new-comers within the limits of the Empire, the very essence of the Roman State was ultimately altered. It lost its classical character altogether. The conversion of the barbarians was, in most cases, of greater interest to the Romans of those centuries than their repulsion. And thus Christianity added to its numerous forces sapping the Roman State a new force—the admission of barbarians, whose non-admission to, nay absolute repulsion from, the Roman State had so potently worked at the building up of the latter. In fact it may be said with strict accuracy that the barbarians overthrew the Western Roman Empire, not by conquest, but by infiltration. Their invasions were twofold: (*a*) positively hostile, leading to great wars; (*b*) peaceful, leading to large settlements in very many Roman provinces. It was through those settlements, rather than through the wars, that the Roman Empire was shaped out of its classical form.

The infiltration of the barbarians was so ordinary a phenomenon by the beginning of the fifth century A.D., that we now meet with barbarians in leading positions of the Empire. Thus, the all-powerful general and minister of Honorius was Stilicho, a Vandal. He defeated Alaric, king of the Visigoths

(who, after devastating Hellas, and occupying Illyria, had invaded Italy), at Pollentia and at Verona, 402 A.D. Italy was again victimised by hordes, under one Rhadagais, in 405; and by Vandals, Alani, and Suevi, in 406. Stilicho, falling into disgrace, was executed at Ravenna, 408, in the year of the accession of Theodosius II., son and heir of Arcadius, at Constantinople. Alaric now again clamoured for land for his Goths, claiming also the place of Stilicho for himself; he even created a counter-Augustus to Honorius. The latter, however, held his own at Ravenna. Yet he could not, in spite of apparent amity with the Visigoth, prevent him from bearing down upon Rome, and sacking it, August 24, 410 A.D. Alaric died in the same year. Honorius' generals unseated various usurpers, chiefly by the help of the very Visigoths who shortly after repaired under their leader Atavulf (Adolphus) to Gaul, 412 A.D. After the assassination of Atavulf, who had married Placidia, Honorius' sister, Wallia led his Goths against the Vandals, Suevi, etc., in Spain, and in 419 the Visigoths were formally accorded settlements in Aquitania, between Bordeaux and Toulouse. The Burgundians had in the same way been given lands, first on the left bank of the Rhine, 413 A.D., finally on the left bank of the Rhone, 443 A.D., where their name is still in common use. It was by settlements like these, in addition to the very extensive employment of barbarians in the armies of the Roman Empire (since Honorius, it is said, Roman armies were recruited almost entirely from among barbarians), that a profound change was worked in the very tissues of the organism of the Roman State. Those barbarians had neither the reminiscences nor the mental or moral propensities of

Graeco-Roman peoples. They changed the Roman tongue and Roman habits, just as much as they were changed by them. It has been the common notion of nearly all German historians, that the various Germanic tribes invading the Empire succeeded in subverting it chiefly because of their greater moral worth and innocence. In the writings of those scholars, the Empire is to the Teutons as decrepit old age is to vigorous youth. And just as of late years the "Germanic" nations of Europe have proved to be superior to the Latin races, even so were they, it is alleged, in the fourth, fifth, and sixth centuries of our era. Such views are thoroughly unhistorical; they are based on no facts whatever. In the first place, we can seldom apply the term "nation" to any one of the hordes of marauding brigands that infested the Empire during those centuries. Alaric stood at the head of an army, not of a nation. He was in the hire of the Empire, and drew a salary as a mercenary.[1] His title "king" does not, in the Greek sources, imply any more than "chieftain." In his army there were all sorts of nations, even Huns.[2] To the contemporaries of that alleged migration of "nations" there was nothing remarkable in that now famous exodus of barbarians. Nobody was afraid of their subverting the Empire; in fact, the barbarians then seldom defeated imperial armies signally. Small defeats there were, even considerable failures of Roman generals. But there was scarcely a single one that boded ruin to the Empire. The barbarian chieftains themselves never thought of taking the purple. All that they wanted was land, and offices in the Empire.

[1] Zosimus, v. 29; Olympiodorus (in Didot's *Fragm. Hist. Graec.*), iv. p. 58, fragm. 5.

[2] Zosimus, v. 37.

Before the end of the fifth century A.D. we can therefore not speak of the "realms" of the Ostrogoths or Visigoths. They had none. They had been granted large tracts of land to settle upon. That was all. Theirs was, to use the expression of an eminent French scholar, "*des invasions de Germains plutôt qu'une invasion des Germains.*"[1] There were, during the fourth and fifth centuries A.D., more wars between the various Teuton tribes than between any one of those forty odd peoples and Rome.[2]

Honorius died in 423 A.D., and he was soon succeeded by Valentinian III., Augustus for the West, son of Placidia, Atavulf's widow, and Constantius, Atavulf's former rival for the hand of Placidia. Valentinian, a child at his accession, became a dull voluptuary. The real emperor was Placidia, remarkable at once for beauty, courage, wisdom, and high taste in art. Ravenna, her capital, she adorned with the marvels of ecclesiastical mysticism in architecture. Two of her ministers then wielded the greatest power in council and war—Aetius and Bonifacius. Their rivalries made the then history for several years. Finally Bonifacius died, mortally wounded in a battle against Aetius, who became sole minister of the Western Empire. The Vandals under Geiserich had, at the request of Bonifacius, invaded and taken the province of Africa. In 439 A.D., Geiserich took (rebuilt) Carthage, an exceedingly rich and important place; his fleet was one of the most powerful. In 442 A.D. the Empire formally acknowledged his right of settling his people in the province he had conquered.

[1] Fustel de Coulanges, *L'invasion german. et la fin de l'empire* (being volume ii. (1891) of his *Hist. des institut. polit. de l'anc. France*), p. 310.

[2] Fustel de Coulanges, *l.c.* p. 309, giving the evidences.

During the fourth, fifth, and part of the sixth decade of the fifth century all Europe was terrorised, and largely ravaged, by Attila, king of the Huns. The hordes of these ugly, fierce, cruel, and rapacious nomads were more than a match for the Teutonic brigands. Attila, "the scourge of Heaven," swept over Europe, from Russia to Gaul, trampling down all resistance, plundering and pillaging cities, convents, villages. Nothing seemed to avail against the demoniac rapidity and fighting skill of the Huns. Most Teutonic peoples were subjected by Attila; the eastern portion of the Roman Empire paid him tribute. In 451 A.D. he entered Gaul with a vast army, apparently as the ally of the Vandals and the enemy of the Visigoths. Aetius, however, defeated him, probably first near Orleans, and then in the famous battle near Troyes, on the Catalaunian or Mauriacensian fields, 451. Aetius thus saved Europe, true to the historic vocation of Rome, a few years before the dissolution of the West Roman Empire. This victory laid the foundation of the European importance of France, which was heightened and made incontestable by the subsequent victory of Charles Martel over the Saracens in 732 A.D. Attila retreated, invading, however, Italy in the next year, 452 A.D., the northern portion of which he conquered. Death, caused probably by excesses, put a stop to his career, and to that of his nation. Barbarians stand neither defeat nor the loss of their successful captains. That is the reason why all the invasions of European and Asiatic barbarians, from the eighth century B.C. to the fourteenth A.D., have been productive of no *positive* result. They are epidemics raging in the body-politic of historic nations, causing much evil for a

time, but in the end passing away unnoticed, ineffectual. Attila was a species of cholera decimating Europe for a few years. He may inflame (as he did) great painters; he is of little importance in history.

Aetius was killed in 454 A.D.; Valentinian III. in 455 A.D. Then followed almost complete anarchy in West Rome, while the emperors at Constantinople were succeeding each other in tolerably good order. The two dominant personages in West Rome were Ricimer, a Suavian, chief minister and king-maker to the rapidly alternating emperors at Rome; and Geiserich, king of the Vandals, who conquered Mauritania, Sardinia, Sicily, and Corsica; he even sacked Rome, 455 A.D. Neither the Western nor the Eastern emperors could deprive the clever Vandal of his prey. Ricimer died in 472 A.D., and the Roman emperorship was finally given to the young son of the Roman Patricius, Orestes; his name was Romulus, surnamed Augustulus. However, his Germanic mercenaries, mostly Herulians, revolted from him, appointing at the same time Odoacer, their chieftain, ruler of Italy. Here the history of West Rome is generally made to end. It must, however, be remarked that Odoacer was no *Augustus*, nor a "Germanic king." It did not so much as occur to him to deny the supremacy of the *basileus* at Constantinople. The Roman Empire was still one; Italy still belonged to it. Other provinces, it is true, were lost to the Empire. Thus Britain, taken by the Angles and Saxons about 449 A.D., had been abandoned by the Romans before that. In Spain, too, the Visigoths spread by immigration and small wars; and the Francs in Gaul became, under Chlodowig

(Clovis), not the independent rulers of the country, but at any rate the most prominent class of citizens. Odoacer's high position roused the envy of Theoderich, "king" of the Ostrogoths, a Teutonic tribe confederate with Constantinople, and dwelling in Pannonia. The valiant Ostrogoth, of the family of the god-descended Amali, invaded Italy, battled with Odoacer for three years, 489-492, consented after that to recognise Odoacer as his colleague, and finally picked new quarrels, and assassinated Odoacer during a banquet. Theoderich too administered Italy as part of the Roman Empire. His powerful minister was Cassiodorus, a man of high culture and a considerable statesman. Theoderich, the most prominent now amongst the Germanic chieftains, kept peace with the Vandals, and with Constantinople, at least as a rule. He died in 526 A.D. It was during the reign of the Emperor Justinian, in the sixth century A.D., that Belisarius and the eunuch Narses, his generals, completely defeated and coerced the rebellious Ostrogoths, Belisarius in 540 A.D., Narses in 554 A.D. This had become possible chiefly in consequence of the total destruction of the power of the Vandals by Belisar, 533 A.D. It was only through the invasion of the Longobards in 568 A.D. that Italy was unromanised. From that time onward, although small strips of territory on the south coast of Italy did still belong to the Roman emperor at Constantinople, the rest of Italy was practically, if not quite in legal formality, detached from the body of the Roman Empire. Spain, Gaul, and other western provinces became so, in fact if not in law, during the sixth and seventh centuries. The causes of the disintegration of the western portion of the

Empire from the middle of the fifth to the end of the sixth and seventh centuries have not yet been fully ascertained. It is, however, beyond a doubt, that the rise of the papal power in Rome contributed to that disintegration perhaps more directly and more powerfully than did any other cause. For the Roman bishops and the Roman Church severed ecclesiastical institutions from political so completely that the Empire, which was based on an organic union of State and Church, could by no means retain its previous vitality in the West. In the eastern or Byzantine portion of the Empire, on the other hand, the Christian Church did not succeed in creating for itself an independence and sovereignty similar to that of the Roman Church. The Greek Church always was, and to the present day is, one of the institutions of the State; not a State *sui generis*. The Czar of Russia is at present what the ancient *basileus* of Constantinople used to be down to 1453, or the capture of Constantinople by the Turks. Hence the historic halo surrounding Constantinople (or *Zargrad* = imperial city *par excellence*, as the Russians call it) in the minds of all Russians. Hence also the traditional hankering of the Czars for universal rule. The *basileus* always considered himself the highest of all potentates. If, therefore, the complete rupture between State and Church in Italy may be taken as one of the chief causes of the disintegration of the western half of the Roman Empire, the strong subordination of the Greek Church to the State may be considered as the most potent cause of the enduring vitality of the Byzantine realm.

From the preceding statements it will be evident that the decay of the West Roman Empire was not due

to the invasions of the Teutons. That the latter, by introducing alien elements of thinking and acting, were discolouring many a Roman institution, is certain. Thus they precipitated the rise of idioms other than the Roman language; they introduced numerous new legal and social habits. Yet the fall of the Roman State in the West was not due to them in the first place. The Roman State, like every true State, requires political, legal, military, ecclesiastical, and financial institutions, each of which must be subservient to the maintenance of the State, and to it solely. When, therefore, (*a*) the majority of the people in Italy had become either deprived of or indifferent to their political rights; when, furthermore, (*b*) the Roman armies consisted, as we have seen, of hirelings, instead of citizens; when, lastly, (*c*) the Church was not in subserviency, but in direct and successful opposition to the State: the downfall of the State could no longer be staved off. The three currents of facts just mentioned give a tolerably clear, if not a complete explanation of the decline of the West Roman Empire. The facts illustrating and proving point *b* are too well known to need any further comment. Points *a* and *c* must be dwelt upon more fully.

BOOK VII

THE ROMAN PRINCIPATE, ROMAN LAW AND ROMAN LITERATURE

In the outline of the constitution of the Roman Republic given above (in Book III.) it was essayed to determine the functions, rights, and obligations of the three constituent elements of the Roman State down to the end of the third century B.C. The *populus*, the *magistratus*, and the Senate of Rome continued to move on the lines there indicated for over two more centuries. Changes no doubt there occurred; and as the life of the Romans gained in volume and internal wealth, so their political institutions grew in number and complexity. The Senate, as we have seen, encroached upon the activity of many another organ of the State; single magistracies, and most of all the tribunate, displayed an ever-growing power during the second century B.C. The jurisdiction of the praetors, too, embraced an indefinitely growing circle of subjects; and perhaps the only magistracy whose power was decidedly waning, were the priests and pontiffs. When finally the age of the Revolution had set in, and single Romans were wielding powers commensurate with the vast extent of the Roman State, the ancient constitution of Rome still remained unshaken. There still were the three pivots on which it had rested for so many centuries; and, unlike modern nations, the

Romans of the Revolution did not, as a rule, rush to a radical recasting of the whole of their constitution. In form, and to a great extent in matter too, the old Roman constitution was left unaltered. Sulla, it is true, curtailed for a time the rights of the tribunes, in that he made their power of submitting Bills to the *comitia* dependent on the previous consent of the newly ordered and aristocratic Senate; and likewise, in that he debarred late tribunes from becoming the incumbents of any other office. But Sulla too left the *jus auxilii*, the *sacrosanctitas*, the *intercessio* of the tribunes untouched. The Senate he enlarged, by adding to its numbers many of the equestrian order; in doing this he did not, however, mean to degrade or weaken it. On the contrary, to its strongly aristocratic tendencies of former centuries, Sulla wanted to add a new and lasting impulse. With regard to the magistracies, he did, it is true, act with a view of debilitating them. The consuls and praetors, he legislated, should henceforth stay in Rome or in Italy during their year of office.[1] The wars of Rome being then mostly out of Italy, the consuls and praetors were thus, as mere civil magistracies, brought under the power of the Senate. With the *Censura*, Sulla dealt still more roughly. At any rate, it is certain that he deprived the censors of their right of appointing senators. However, this too was a change more of form than of matter, the senators having always been appointed with due regard to previous incumbencies (see Book III.); and Sulla, who raised that regard to the only legal re-

[1] There is no express evidence for that in the sources; it is shown only in the practice, following the legislation of Sulla, of sending consuls into the provinces only after the expiration of their term.

quisite for candidates of the Senate, weakened thereby the censors rather than the *Censura*. Lastly, in the *populus*, which now comprised nearly all free inhabitants of Italy, he wrought a change by extension of ancient rights, but none by abolition thereof. He probably introduced the system of municipal self-government of the Italian communities. This "Sullan reform," however, was of very short duration;[1] and the mighty Cornelian could alter the old organism of Rome as little as could his immediate followers. His laws about the institution and organisation of new courts of criminal jurisdiction alone (*quaestiones perpetuae*) survived him and the Empire.

It is therefore permissible to proceed now at once to the times of the Empire, through which the constitution of the Roman State sustained a series of very incisive changes. The most notable of those changes were the establishment of the Principate, and the imperial administration. The strongly juristic character of the Roman State raised it, almost from its very beginnings, to a level of typical importance higher than any other State in history, except that of the Catholic Church. It was, like most relations of social, religious, or commercial life in Rome, a strictly legal organism. And just as the jural relations of sale, hire, or bailment are construed in Roman law from a basis independent of the complications and alloys of concrete cases of sale, hire, or bailment; even so the Principate must be construed from, if not on a basis independent of, the actual incidents in the lives of particular emperors. The political institutions of no nation invite and demand theoretic construction by general principle as forcibly as do

[1] From 86 to 70 B.C. no censors appear to have been elected.

those of the Romans, this the most unscientific, the most matter-of-fact of nations. For, placed as they were in the centre of the Mediterranean world, they were exposed to as much concussion from outside as to shocks from inside. Thus their constitution grew up at once rich and highly differentiated, and therefore apt for systematisation. The comparatively rare and feeble impact of foreign policy on the English constitution accounts for many of its obscure anomalies and incomprehensibilities. Internal conflicts of institutions make them complete; external ones render them plastic. Mommsen, in systematising the Principate, has acted not at all on the impetus of his profession as a theoretic jurist. He has only done justice to institutions and, we may add, to himself; being better equipped, as he was, for the dispensation of justice to institutions than to historical persons.

The events related above (comprising the history of Rome from 133 to 44 B.C.) had made it a mere matter of inevitable necessity to deviate from the aristocratic or oligarchical type of constitution, and to superadd an office which, being largely of a monarchical character, would save the Empire from the pestilence of ever-raging civil wars. That period of nearly ninety years, obscure as it still is in many respects, does yet convey one paramount lesson in the most distinct manner. The Romans were at a loss how to combine a republican government with a peaceful administration of the vast provinces they had acquired. They too failed in what all republics of antiquity were ever unable to succeed—in the establishment of confederacies. Had they made of the Mediterranean States a confederacy as strong as is that of the United States of America, there is

no reason for rejecting the strong probability of a continuation of the old Roman republic. This, however, was quite alien to their mind, and probably beyond their means. In the interest of humanity, this failure is profoundly to be regretted. A confederacy of the united Mediterranean States would have quickened the march of European civilisation by at least twelve centuries. It was not to be, however. Everything tended to an Empire. The Romans proper were now outweighed in numbers by Roman citizens of Italic origin, whose jealousy of Rome made them favour a monarchy more than the republic. Under a monarchy Rome might, nay must, descend from its lofty position of general ruler, and be on a level with the rest of Italian cities. Accordingly, the Italic peoples were the most resolute partisans of Marius, Sulla, Pompey, Caesar, Octavian, and Mark Antony. In other words, they precipitated with all their might the rise of monarchy. As to the nations outside Italy, they had long lost all political nerve. Unable to consummate a confederacy or the only organisation that would have made them powerful, they favoured Italy out of mutual jealousy of one another. Thus Italy broke up the republic, as some centuries later the provinces ruined the monarchy of Rome. The tap-root of all these historic changes is the fact that nearly all the ancients started by founding city-states. Each species of State has its particular origin as its particular scope of transformation. Whatever proofs may be adduced regarding the transformations of species of plants or animals, certain species of States do not transform *ad libitum*. They rather perish than transform to a species uncongenial to them. Thus city-states are

naturally of exceeding intensity of political life. The law of our ideas and concepts, lessening their intensity in proportion to their extensity, applies fully to the greatest achievement of the practical mind, the State. Hence city-states are naturally averse to extension and expansion by means of leagues and confederacies. Each State of the American union necessarily lost in intensity of political life. In such a loss the city-states of antiquity would never have acquiesced. Nor do the small States of modern Europe admit it. A confederacy of modern Rumania, Servia, Bulgaria, and Greece would heighten the power of each of the confederates very considerably. Yet they will never seriously meditate such a league. They are four distinct national States with particular interests too intense to admit of being blended into one colourless union. It was even so with the city-states of antiquity. When, therefore, they all lost their independence, they welcomed the advent of a government under which their former rivals were reduced to an insignificance as total as was their own.

The Roman Principate is a political institution *sui generis*, and must not be confounded either with that of the Asiatic despot or that of the modern constitutional king. The Roman emperors down to the accession of Diocletian were, with some occasional differences, the highest *magistratus* of the Roman State, not its kings. Caesar, it is true, evidently aimed at kingship proper. His successors down to the great Illyrian receded from Caesar's ambitious goal, contenting themselves with supreme position of a less elevated type. The Roman *Princeps* left

Senate, *Magistratus*, and *Populus* in their main functions; and was only one, if the highest, of all magistrates. His peculiar relation to the Senate, which was then the second great power, has been summed up by Mommsen in the term Dyarchy; and although many a fact of pre-Diocletian Rome will not square with that notion of double government, yet the Roman Empire down to Diocletian was, in theory and frequently in fact, more of a Dyarchy than of a monarchy. This peculiar form of oligarcho-absolutistic *régime* may be dated from the 13th of January 27 B.C., when Octavian received the title of Augustus. The main difference between the *Princeps* and the *Dictator* or other "extraordinary" magistracies of the Republic was in that he was at once nominated for a term of office longer than one year; that he had the constant control of the army; and that the religious element latent in all the higher magistracies of Rome appeared intensified in him. In fact Caesar, who wanted to embody and centre in himself the whole majesty and power of the Roman State, had earnestly attempted to accumulate in his person the religious elements dispersed in the various offices of consul, censor, praetor, tribune, and pontifex maximus. Considering himself the direct heir of Republican Rome, which had, as Dea Roma, been worshipped by various Eastern cities,[1] he consistently claimed that tinge of divinity which was part and parcel of the Roman State. Thus he had his statues placed in the temples, and had a special *flamen* appointed to his person. The people, anxious to heap all honours on the head of

[1] By Smyrna as early as 195 B.C. (Tacit. *Ann.* iv. 56), and probably by Athens too, some years later (C. Wachsmuth, *Athen i. Alterth.* i. p. 641 *n.* 1).

him who had liberated them from endless civil wars, adored him as a god. For there still was left so much majesty in the Roman people that, like modern sovereigns, they distributed orders and decorations in their fashion, that is, they treated their favourite as one of the numberless gods of sunny Olympus. Like distinctions the Greeks and other nations had conferred upon Roman generals or provincial governors, and the hymns sung to the honour of the "god" Flamininus were still chanted in the same chapel, two hundred and fifty years later, in the times of Plutarch. Augustus, less consistent, but more practical in that respect than Caesar, did not openly aspire to "divinity," except in the eastern provinces, where such adoration of the princes was ingrained in the habits of the people. In Italy he merely tolerated, in Rome he positively refused it. Yet the religious character of the emperors was always carefully maintained by them, except by the gruffly honest Tiberius, and the imposing ceremony of the *consecratio* or *apotheosis* (by which a deceased emperor was declared to have become a god, his soul being carried heavenward by an eagle let loose for that purpose from the top of a gorgeously decorated pyre on which burnt the wax masks of the deceased) was considered and observed as a very efficient measure of imperial policy. The public at large viewed those ceremonies and claims of divinity as we view decorated persons, with a measure of reverence in times of calm, with utter neglect in times of serious complications. No emperor previous to Aurelian dared to call himself *deus* while alive, and even his consecration made him only a *divus*, not a *deus*. The slavish exaggerations of the Asiatic subjects of Rome as to the adoration

of the emperors may safely be neglected. In all the provinces and *municipia* there were provincial or municipal *flamines* or *sacerdotes*. Yet while they were the priests of the living as well as of the deceased emperors and of *Roma*, the names of the actual princes never appear in their official titles as seen on numerous inscriptions.

The new office of the princeps had no official title proper, *Princeps* being the literary term only. *Imperator* (*αὐτοκράτωρ*) is perhaps the term denoting the power of the new official most completely; since Vespasian it became permanent. *Augustus*, too, was part of the name of every emperor, and likewise *Caesar*. In the first century A.D., "Caesar" is placed after the Praenomen or the gentile name; for instance, Imperator Nero Claudius Caesar. Ever since Hadrian, "Caesar" follows "Imperator"; for instance, Imperator Caesar Trajanus Hadrianus Augustus. The emperor uniting all the great State offices of the Republic in his person generally gave expression to that fact, as may be seen in the following typical example: Imperator Caesar Trajanus Hadrianus Augustus, pontifex maximus, tribunicia potestate, consul (iii., iv., etc.), pater patriae. Sometimes "censor" and "proconsul" were added; the former preceding *p(ater) p(atriae)*, the latter following it. Other apposites, as *pius, felix, invictus, perpetuus, aeternus*, are not *de rigeur*. Augustus, who aimed at dissociating the very name of his dynasty from that of common citizens, dropped his gentile name altogether. Mediaeval and modern sovereigns have adopted that measure, discarding, as they did, their surnames. Diocletian, who definitely transformed the Dyarchy into an absolute monarchy, was the first to exact the address of

"Dominus," which communities had already used since the times of Septimius Severus. In his dress the emperor did not differ ordinarily from other citizens; at festivities he alone wore the purple toga. The family of the emperor also largely shared in his honorary titles and distinctions. Previously to Hadrian the male members were called "Caesar," Hadrian restricting this title to the successor. The women were regularly called "Augusta" since Domitian's reign. A Court proper the emperors did not have. The Court offices (secretary, chancellor, treasurer, etc.) were given first to freedmen, mostly Greeks and Orientals; by the end of the first century of the Empire to knights. The tendency, and frequently the fact, of entrusting minor people with the Court offices distinguish the pre-Diocletian "monarchy" very markedly from monarchies in subsequent times. They illustrate the unmodern character of the Principate of the first three centuries of the Roman Empire very strongly. They also show that while the Greek nation was crushed, Greeks held the most influential posts at the Roman Court. Another anomaly in the anomalous Principate. In mediaeval and modern times the royal cup-bearer, equerry, chancellor, etc., have always been offices filled by persons of the highest rank. There was a like difference in the accessibility of the emperor. Although he had several grades of *amici*, or persons received by him, yet the barrier between him and the common man was very much lower than that between modern sovereigns and their subjects.

A formal act of accession the Roman emperors did not observe, nor was there a law as to particular qualifications to the office. Down to Vespasian

(*exclusive*), all emperors were Roman patricians; and down to M. Opelius Macrinus (217 A.D.) they had all been senators. The actual transmission of the imperial power was realised by two Acts—one for the *imperium*, the other for the *tribunicia potestas*. Augustus still observed the decorum of accepting office for ten years only, having it renewed on the lapse of that time. Tiberius accepted it at once for life. The Principate was terminated by death, resignation, or deposition. Through the *damnatio memoriae* (a sort of judgment on the dead), the late *princeps* might be declared unworthy of mourning, statues, and other honours. The Principate was theoretically not hereditary. Public opinion, however, considered the son by nature or adoption, or the heir of the Princeps, his legitimate successor. The constitutional powers of the emperor were (*a*) the *imperium*, given him either by the army or the Senate, on the *dies imperii*. In that, too, the Roman Principate differed most essentially from modern monarchs. Modern armies have rarely, if ever, exercised such a power. The *imperium* made the Princeps the chief commander and lord of the armies of the provinces, and, practically at least, of Italy too. It also gave him certain "imperial" provinces, whereas other provinces remained under the administration of the Senate. In the "senatorial" provinces the Princeps had nevertheless an *imperium maius*. (*b*) The *tribunicia potestas*.—The strictly jural character of the Roman State required of Augustus to base his exceptional position on the foundation not only of might, as given in the *imperium*, but also on that of right. He first wanted to avail himself of the consulate, which, by

insensibly stretching the meaning and drift of its functions, might have been altered so as to serve as a legal substratum of the Principate. For unknown reasons Augustus dropped the consulate, and selected the tribunate. In the felicitous words of Mommsen, Augustus did not become tribune of the plebs, but he appropriated the tribunician power.[1] He thereby gained all the vast powers of the tribunate (see Book III.), and, being made tribune for life, his annual colleagues in the tribunate, as well as all the other limitations of that magistracy, lost all control over him. The day of the investment with the tribunician power by the Senate was rarely the same as the *dies imperii*; it generally followed some time after. (*c*) The emperor's share in the legislative functions is, as far as the constitutional theory is concerned, a matter of some obscurity. The Princeps, like most of the higher magistrates of Rome, could, and of course did, submit Bills to the *comitia*, and after the cessation of the *comitia* in Tiberius's time, to the Senate. He also practised the dispensing power to a great extent, and monopolies, colonisations, the franchise, and similar privileges were in his gift. Yet the legislative functions of magistracies other than the Princeps are both recorded, and in theory not incompatible with the Principate. (*d*) The right of convening the Senate was implied in the *tribunicia potestas* of the emperor. He could put written Bills to the number of five before the Senate, and was the first to vote. (*e*) One of the richest sources of the imperial power were the various decrees and "ordinances" issued by the emperors in legal matters. The *constitutiones*, *decreta*, *mandata*, etc., drawn up

[1] Mommsen, *Staatsr.* ii.[3] 873 (p. 837 of 2nd edit.)

by the imperial jurists did for the civil law of the Empire what the *edicta* of the praetors had done for it during the later Republic. (*f*) The officials of the Empire were appointed partly by the Senate, partly by the emperor. The old republican magistracies were formally elected by the *comitia* (or later by the Senate). In fact, however, the emperor's influence on these elections was rendered decisive by his right of recommending his candidates (*candidati principis*), which "*commendatio*" generally amounted to the election of the candidate. Yet no emperor could depose any magistrate; he could only suspend him by virtue of the *tribunicia potestas*, thereby compelling him to resign his office. With regard to officers in the army and such administrative officials as were not considered Roman magistrates proper (revenue officers, *praefectus praetorio* at Rome, viceroys in annexed provinces, e.g. *praefectus Aegypti*), they were appointed directly by the emperor and were salaried. He also appointed some of the highest magistrates in the administration of the Empire. (*g*) The senators were in the beginning elected as of old, but the emperors soon secured the power and the right of appointing them, first largely, finally (after Domitian) solely.

The respect and even delicacy with which many an emperor before Diocletian treated the forms of the ancient State regarding Rome and Italy[1] were little used with regard to the government of the

[1] Augustus divided Italy into XI. "regiones"; but we ignore for what purpose. The self-government of the Italian communities was first encroached upon by Trajan (Orelli, *Inscr.* No. 4007); then by Hadrian, who established the *juridici*, who grew to be practically provincial governors, called *correctores*, in the third century; Diocletian finally stopped the exemption of Italy from the land-tax.

provinces. Already Claudius appointed a host of administrative officials (mostly freedmen) for the administration of the provinces. Hadrian, who introduced many knights, organised that bureaucracy, and under Septimius Severus and his successors the Senate was almost completely supplanted from the administration of the Empire. During the third century, moreover, the old union of military and civil functions was dissolved, and Gallienus shut out the senators from the military career altogether. Thus the real government of the Empire came at an early date to be concentrated in the hands of the Princeps: the criminal and civil jurisdiction largely; the treasury, although formally divided into fiscus or imperial, and aerarium or senatorial, mostly; the coinage of gold and silver solely; and foreign affairs, together with war and peace, exclusively.

The emperors, while uniting in themselves all the magisterial powers of the republican magistrates, did not ostensibly and regularly assume the titles of consul and censor. Some of them were consuls for life, some not. But they always and invariably belonged to the highest priestly colleges of Rome. No one but an emperor was *pontifex maximus* from 12 B.C. to 238 A.D.; in 375 A.D., Emperor Gratian abandoned that dignity. Thus the emperors were the heads of the whole of the religious institutions of the Empire.

The most powerful minister of the emperor was the chief praefect of the guard, the *praefectus praetorio*: at once the bureaucratic superior of all military and civil officials. Considering the nature of the Roman State, it is quite comprehensible that the *praefectus praetorio*, totally unlike modern prime ministers, was obliged to be a man of comprehensive knowledge of

civil law. He was the representative of the emperor in theory and practice, and frequently his creator in fact.

Lastly, the Principate, although originally restricted to one person, did, like all Roman magistracies, lend itself to a plurality of incumbents, each of whom had the same competence, if not always the same personal prestige.

The story of the emperors, although (or perhaps because) most unsatisfactorily known, has captivated the fancy of all subsequent ages. And just as the small Philistines of German petty principalities, in the eighteenth century, fed their imagination on the narratives of the pageants or excesses of this or that pompous kinglet, landgrave, prince, or grand-duke in Germany; even so have the petty and big sovereigns of Italy, France, Austria, and other countries, together with their courtiers and Court savants, looked up with awe and admiration to the great emperors of Rome, especially to such amongst them as revelled in lust, crime, and almost super-human autocracy. The horrors imputed to various emperors are certainly not without strong evidence, nor without an element of great probability. Most of them after Nero were upstarts. And if it takes "three generations to make a gentleman," it takes certainly more than two to make a real sovereign. Even financial upstarts are seldom able to hold their own on the dazzling heights whither good fortune has lifted them. It takes more than the possession of millions to be a millionaire. In addition to this, there were other causes incapacitating many of the emperors from escaping the pitfalls of Caesarism. Thus Commodus certainly was a fiend. But not before he had gone through the awful experience of

seeing his own sister Lucilla plot against his life. Of the 108 persons belonging to the imperial house from Caesar to Nero, thirty-nine were assassinated by their relatives. Over two-thirds of the emperors previous to Constantine the Great ended by assassination. This covers only a little over three centuries. In the nine centuries of Polish history, in the ten of Austrian history, and in nearly five of Prussian history, there is no case of an assassination of their respective rulers on record. Under such circumstances we must wonder rather at the great number of good, nay exemplary, emperors, than at the small number of short-reigned fiends like Caligula, Commodus, Caracalla, etc. In view of the desolating fact that all the great historic nations round the Mediterranean calmly acquiesced in political nonentity; in view, we say, of that unparalleled decline into abject thraldom on the part of nations once the glories of humanity, how can we waste our time with venting our indignation at some imperial upstarts, demented by the constant dread of assassination and outraged in all humane sentiments by the fiendish plots of those nearest to them through kin and kindness? The moderation of Vespasian, Trajan, Hadrian, or Marcus Aurelius is infinitely more startling than the excesses of Commodus or Heliogabalus. At any rate the women of the Julian, Claudian, and later houses were more profligate and sinful than the men. This, if anything, shows that the crimes of some emperors were the upshot of their position, at once very powerful and very unstable, rather than of their individual characters. For position tells more on women than on men. As a rule, women have the character of their situation,

and no other. Even during the time of emperors as irreproachable as were Antoninus Pius and Marcus Aurelius, we find the two Faustinas, mother and daughter, wives to these emperors respectively, and paramours to others irrespectively. The emperors of Rome were, therefore, not worse than absolute rulers of any other historic period, and many amongst them overcame the base propensities inherent in Caesarism with admirable fortitude. Lastly, our literary sources for imperial Rome are mostly so largely tainted with zelotism, animosity, or interpolations, that their very authenticity has given rise to grave doubts.[1] The epigraphic material referring to imperial Rome does certainly not bear out either the despondency of Tacitus or the gibes of Juvenal.

Roman Law

We have now to consider Roman law, this the most enduring result matured *directly* by the Roman Empire and its institutions, a result the greatness of which is not unworthy of the immortality attaching to art or the outcome of the civilisation of the Greek city-republics. Of the *indirect* upshot of the Empire we shall treat in the volume on the origin of Christianity.

[1] Thus the authenticity of the well-known collection of ancient historians narrating the lives of the emperors from Hadrian to Gordian III., or, as they are commonly called, the *Scriptores Historiae Augustae*, has been attacked with partly irrefragable arguments by H. Dessau, *Hermes*, vol. xxiv. (1889), pp. 337, etc. Dessau's in many ways convincing treatise has been supplemented or combated by Th. Mommsen, *Hermes*, vol. xxv. (1890), pp. 228, etc.; P. Habel, in *Wochenschr. für klass. Philol.*, No. xv. (1890), pp. 418, etc.; O. Seeck; E. Klebs; and others. Dessau replied to his antagonists in *Hermes*, vol. xxvii. (1892), pp. 561-605, maintaining his thesis. H. Peter's *Die Script. Hist. Aug.* (Leipsic, 1892) defends the conservative view.

Roman law is, like Greek art, not the production of a number of clever individuals or of deliberately chosen measures. It is the make of the essential and characteristic institutions of Rome, as Greek art is that of all the forces of the Greek body-politic. No amount of individual ingenuity could have made that admirable system of law in which theory and practice have joined in legitimate matrimony, engendering justice, clearness, and equitable procedure. Like the Roman Empire, Roman law grew up *rebus ipsis dictantibus*, as one of the Roman jurists put it. The Romans never intended to become the greatest jurists the world has as yet beheld. In fact, of all nations the Romans were the least likely to do anything remarkable in the way of theoretic studies, and least of all in the theoretic study of the jural relations of private law. For it is well known that by Roman law we mean Roman private law—the common law of Rome. Had the Romans left us masterly treatises on the theory of the State, we might easily comprehend their doing so. Were they not the most successful architects of a State of immense vitality and efficacy? This, however, they did not seem to be capable of at all. Their writings on the theory of the State are very poor, and in that respect, as in so many others, the ungovernable Greeks distanced them completely. In the rearing of a well-organised edifice of a theoretico-practical system of private law alone the Romans not only surpassed but utterly eclipsed the Greeks. We have seen and admired the marvellous power of the Greeks in construing sciences from the most incoherent and scattered data of empirical and even unsystematic observation. We have also seen that

few nations were more addicted to litigations than were the Greeks. Yet the ingenuity which they applied in grinding uncut facts of Nature, the human soul, or art, into the well-polished gems of theory, utterly failed them with regard to the facts of the law-court or commercial offices. Their notions of private law were wholly empirical or so entwined with religious or ethical notions that the very idea of a distinct theory of private law did not occur to them, the greatest theorists of all ages. Nor did such an idea occur to any other ancient nation, as far as we can gather from our records. Even the Jews of imperial Rome, whose studies turned largely on questions of private law, and of whose subtle investigations into problems of civil law we still possess a huge body of evidence in the Mishnah and the Gemarahs; even they had never been able to raise their lucubrations to the dignity and efficiency of a system. The juridical wisdom as deposited in the Talmuds has, it is true, not yet been made the subject of scientific study. Yet this much may be gathered from the translations and other works of Surenhusius, Rabbinowicz, Lazarus Goldschmidt, E. Renan (or, properly speaking, A. Neubauer's work on the French mediaeval Talmudists, published by E. Renan in the *Histoire littér. de France*), and others, that, while the study of talmudic jurisprudence and law offers a profound historical interest, it certainly has little systematic or dogmatic value for the modern jurist. Nor can our estimation of the immense juridical labour embodied in the striking law-findings of the old Irish Brehons; in the elaborate *Grágás* of Iceland; or in other Scandinavian law-books of the early Middle Ages, be any other than that regarding

the Talmuds. They are one and all of very great historic interest, but no more. They are, or very largely so, like mediaeval treatises on alchemy as compared to modern works on chemistry. The historian of chemistry must needs study them, the modern chemist is indifferent to them. Roman law, on the other hand, although many of its institutions are necessarily antiquated, is of an essentially different character. The great Roman jurists still walk amongst us, giving advice on matters of actual and pressing need in Courts of Law. We refer to them as we do to modern text-books of science. The wisdom of Q. Mucius Scaevola, Servius Sulpicius, Alfenus Varus, Marcus Antistius Labeo, Salvius Julianus, Gaius, Pomponius, Papinianus, Paullus, Ulpianus, Africanus, and other Roman jurists, is a living wisdom. Fortunes are still lost or recovered in Courts of Justice according to the opinion uttered twenty or nineteen centuries ago by one or the other Roman jurist. In fact, so great is the intrinsic value of their works, that even where they treat of institutions long since antiquated, such as slavery, state of freedmen, *patronatus*, *patria potestas*, or the old Roman testament, we are still following them with the utmost interest, their thoughts on those antiquated institutions shedding light on institutions of law still in force. Thus the innumerable problems and investigations on slave law to be found in the writings of the Roman jurists (especially in Africanus, the most subtle of them, but to a very great extent also in the works of all other *jurisprudentes*), far from losing anything of their juridical value by the historical abolition of slavery, are still one of the richest sources of juridical knowledge. The Romans

made of the slave a jural type, just as modern Continental law has made a jural type of the "merchant." Such a type yields far more juristic output than its substratum would suggest. It becomes a category of juristic thinking. Accordingly, while the works of American jurists on slave law in the slave States previous to the great Civil War, such as the treatises of J. C. Hurd, T. R. R. Cobb, H. Wilson, and others, have been doomed to utter insignificance; the works of Roman jurists on slave-law have not lost one tittle of their dogmatic importance. Roman law in most of its branches is of absolute and not of historic value. In times, and with nations totally different from the Romans, Roman law has acquired an importance almost as great as it had when the appeals from all the Mediterranean countries were still sent up to the *prudentes* of the imperial chancery. Of the three great systems of private law that have been and are obtaining with the majority of civilised people, to wit, the Roman, the English, and the Mohammedan law, Roman law is by far the most systematic, the least cumbrous, and the least involved. Both Mohammedan and English law could not but admit a considerable infusion of Roman law, and in the words of Tindal, C.J., the authority of Roman law in England at present may be expressed as follows: "The Roman law forms no rule binding in itself on the subjects of these realms, but in deciding a case upon principle, where no direct authority can be cited from our books, it affords no small evidence of the soundness of the conclusion at which we have arrived, if it prove to be supported by that law, the fruit of the researches of the most learned men,

the collective wisdom of ages, and the groundwork of the municipal law of most of the countries of Europe."[1]

The exceeding excellence of Roman law consists in its admitting of the theoretical constructions not only of individual cases, but also of the entirety of jural relations. Precedents have little weight and are almost neglected; and the law of evidence, far from being inflated into a bulky and artificial fabric, is left to natural lights, as in other sciences. Procedure, on the other hand, or the acts necessary to arrive at a juristic formulation of the claims and counter-claims of parties, is, in Roman law, an organism of the most exquisite and sensitive finish. In fact, as scientific physics stands to the traditional rules of artisan-craft, so stands Roman law to the case-lore of other nations. The dogmatic reasons of this excellence are palpable; the historical are less so. Dogmatically, there can be no doubt that the excellence of the Roman law is due to its discarding all factors of an irrelevant character. It is tampered with neither by religious or theological elements, as

[1] *Acton* v. *Blundell*, 12 Meeson and Welsby, 324; quoted in Mr. James Williams's very valuable work, *The Institutes of Justinian illustrated by English Law* (2nd edit., London, 1893), p. xxix. Mr. Williams gives also the following list of "modern cases where Roman law has been cited in the argument or the decision: *Blakemore* v. *Bristol and Exeter R. Co.*, 27 Law Journal, Queen's Bench, 187 (*commodatum*); *Embrey* v. *Owen*, 6 Exchequer, 371 (servitude); *Taylor* v. *Caldwell*, 3 Best and Smith, 826 (*obligatio de certo corpore*); *Nugent* v. *Smith*, 1 Common Pleas Division, 423 (Act of God); *Foster* v. *Wright*, 4 Common Pleas Division, 416 (*alluvio*); *Burton* v. *English*, 12 Queen's Bench Division, 220 (*lex Rhodia de jactu*); *Bentley* v. *Vilmont*, 12 Appeal Cases, 471 (delivery *brevi manu*); *Cochrane* v. *Moore*, 25 Queen's Bench Division, 57 (delivery of gift); *Dashwood* v. *Magniac* [1891], 3 Chancery, 306 (*silva caedua*)." Compare on the whole question of the influence of Roman law on English law the valuable work by Mr. Thom. Edw. Scrutton, *The Influence of the Roman Law on the Law of England* (Cambridge, 1885).

is the whole of Talmudic or Mohammedan law; nor by ethics, as was Greek law; nor by political bearings, as was feudal law. The profound religiosity of the Romans, their intense respect for ethical integrity, and their greatness as politicians, ought, one might presume, to have rendered their common law more subject to these three agencies than was the law of any other nation. Yet such was not the case. Already, two hundred and fifty years before our era, and probably very much earlier, Roman law had shaken off all heterogeneous elements, developing as a civil law proper. It was, to use an uncommon but significant term, a thoroughly *civilistic* law. Just as Greek mathematics had, at an early age, discarded all previous connections of arithmetic and geometry with necromancy, palmistry, astrology, and similar obscurantisms, becoming, as it did, a science of purely quantitative relations of numbers and geometrical figures; even so Roman law had, at an early stage, divested itself and disowned all spurious connection with legal symbolism, theological ritualism, ethical pareneticism, or any other civilistically irrelevant agency. Many a Roman institution lent itself naturally to an undue amalgamation of notions, juristic and semi-juristic. Thus, Roman clientela was instinct with feudal propensities; many of the pontifical institutions bordered closely on some and overlapped other civil institutions; and the politically marked discrepancies between patricians and plebeians had many a chance of swamping territory of common law. Yet, with all those possibilities, Roman common law kept free from disintegrating elements. The Romans, in fact, were the inventors of the science of common law. It has

been said that they invented the testament. True as this is, it yet points out only a very small portion of their "invention." The Romans were the first to formulate or to "invent" not only the means of moulding juristically acts *mortis causa*, as the testament, but also acts *inter vivos*, as contracts. More than that, they not only discovered the proper juristic organism for contracts or wills, that is, for non-contentious law, but also the adequate manner of making contentious (or adjective) law a thoroughly juristic act. As in a real drama, every part is dramatic, and neither epical nor lyrical; as in a real sonata, every part is sonatesque, and neither song-like nor fugue-shaped; even so must a truly appropriate private law be wholly civilistic, and neither theological, nor ethical, nor economical. The Romans, and they alone, achieved that task. Their law (*droit*), both in its statical and dynamical aspects, in matters of personal and real rights, in acts *inter vivos* or *mortis causa*, is *per eminentiam* civilistic. It is not the law of the Romans, it is The Law. It was with regard to this universalist character of Roman law that we said above that Roman law is a *derivatum* of the Roman State. For, even as the latter is a type of history, rather than the history of a type, so Roman law is a type of legal science, rather than the science of a legal type.

With the teachings, divisions, and the history of Roman law we are at present not concerned. For although the history of that law is, as the great Vico has remarked nearly two centuries ago, one of the most powerful means of comprehending Roman history, yet the limits of the present work render it unfeasible to enter on that very interesting question

at any length. The problem, on the other hand, as to the historic causes of the rise of the science of law amongst the Romans, and amongst them alone, must be taken into consideration as an integral part of general history.

Roman law, although developed and matured by the jurists of the Empire, was not invented by them. The essential features of the peculiar excellence of that law were clearly differentiating in the last two centuries of the Republic, and in the still extant fragments of the works of Marcus Antistius Labeo (of the times of Augustus, whose opponent he was) we already discern the full-fledged power of juristic analysis and synthesis of Roman law. For the purpose of our problem, we need not therefore concern ourselves with the vast labours of the imperial jurists, who were only building on the firm basis and wall-work hewn out by the "*veteres*," or the jurists of the Republic, just as modern pandectists are building on the edifice left to them by the imperial jurists of Rome. Our problem is thus reduced to the simpler question: What were the causes of the rise of the science of private law amongst the Romans of the Republic, and amongst them alone? It has already been suggested above that the Romans were perhaps of all nations the least likely to create a science of private law. Private law feeds on commercial and industrial relations. The Romans held small commerce in contempt, as all military peoples do, and industrial enterprises were given over to slaves. The practice of private law goes with so many annoyances and inconveniences that nobody can be expected to devote much time to the carrying on of another man's lawsuits, unless he is paid for it.

The Romans, until late in the Empire, never paid fees to their jurists. The cultivation of a science is, as a rule, the work of a profession whose members have gone through a regular course of general mental training, and more particularly with regard to their special science. The real founders of the science of Roman law were unprofessional people who did not cultivate the science of law to the exclusion of all other avocations. The Romans had no special gift or genius for law generally, otherwise we could not understand why branches of law other than private law were left by them in a most primitive condition. Thus criminal law received no better treatment at the hands of the Romans than at the hands of other ancient nations. For of the general theory of criminal law, that is, of the principles underlying the concepts of crime, such as criminal action, attempt (*conatus*), *dolus* or *culpa*, subjects of a crime, objects of crimes, imputability, punishment, application of criminal laws, and statute of limitation, there is no trace in the writings of the Romans, except in occasional hints and implied statements. In their civil law, on the other hand, it was precisely this general part in which they excelled most. As in criminal, so in administrative and in constitutional law: the Romans systematised neither of them. Lastly, as to the once disputed question whether the Romans did not take their law from the Greeks or some other ancient nation, there can now be no longer any serious controversy about it. Like Greek art, Roman law was autochthon, born in and through the Roman State. That many of the Italic cities had numerous legal institutions in common with and independent of Rome is highly probable.

However, Rome alone grew to a State of a type that could bring forth a system of private law of absolute value. Such systems, as they are not the work of a few individuals, so they cannot be mechanically transferred from one nation to the other. They are not pieced together, they are a growth.

From the standpoint of the historian, the problem here treated is practically a research into the causes of the need for a science of private law amongst the Romans of the Republic. The higher the theoretic finish and the more elaborate the subtle organisation of Roman law appear to be, the more necessary becomes the investigation into those circumstances that entailed upon the Romans the inevitable task of construing such a high-strung system of private law. Had the Romans been a nation habitually and intensely interested in things theoretical, such habits would be a fair explanation of their theorising on private law. But the Romans, as is well known, had no such habits. Even a man like Cicero belittled the theoretic works of the great Archimedes. The assumption, therefore, of a constitutional, practical, and most urgent want of a theory of private law in ancient Rome is quite indispensable. National wants of that kind are sure to be gratified, and the more pressing they are, the more they are likely to be gratified satisfactorily. And, as in the case of Roman law, if their gratification is a task of no mean difficulty, nay, if it be a task of very arduous nature, then the fact of their having been gratified is also an irrefragable proof of their having been of the most imperative character. A short consideration of the nature of one branch of law will put the preceding statement in a still stronger light. A lawsuit may

conveniently be divided into three stages: (*a*) the preparation and formulation of the claims; (*b*) the giving and taking of evidence before the judge, together with the latter's judgment; and (*c*) the execution of the judgment. We need not say that such a division of lawsuits is arbitrary, and that a division into four, five, or six stages may be made for the same purpose. Now, it is remarkable how various nations differ in the amount of legislation that they devote to those various stages. While one nation considers it imperative to determine in abundant detail, and fence in every move of the parties or the Court regarding stage (*a*); another nation scarcely thinks it worth while to legislate at all with respect to that stage, directing as it does all its energy and subtlety to the placing of endless rules and regulations in stage (*b*) or stage (*c*). The comparative study of the laws of procedure of various nations from the standpoint here suggested will reveal the most astounding discrepancies of national views regarding the relative importance of the various stages of a lawsuit. We cannot go here more deeply into this question; all that we want to show at present being the relation between such discrepancies of national views and the causes of those discrepancies. For it is, we take it, quite evident that the nation fortifying stage (*a*) at the expense of stages (*b*) and (*c*) is prompted to do so by considerations of the greater dangers connected with that stage, either for the property or the honour of the suitors. The inference from very elaborate fortification to great imminency of danger is certainly an irreproachable one. A lawsuit is a fight, and an intelligent warrior will place his most ingenious and best thought-

out defensive contrivances wherever he is most apprehensive of danger. And *vice versa*, from the place and ingenuity of his defensive contrivances we may fairly conclude the place and greatness of the danger. In order, therefore, to understand thoroughly the various systems of procedure, we ought to be able to discern clearly the various dangers besetting the different stages of a lawsuit in different countries. It is scarcely necessary to add that the study of comparative law has not yet given us this, the really enlightening insight into the working causes of the various systems of procedure. But it is sufficient for our present purpose to grasp firmly the constant relation in the law of procedure between want and ingenuity of defence to imminency of danger.

We have just seen that the want of defence, owing to danger, gave rise, in the law of procedure, to rules and regulations the more complicated the more imminent was the danger. If, therefore, in studying Roman law we find that such an extreme subtlety and systematic organisation have been observed not only in one stage of a lawsuit but almost throughout the whole domain of private law, both pacific and belligerent; we must needs arrive at the conclusion that the whole of civil transactions at Rome was beset with dangers so grave as to call forth the subtlest means of averting them; and, moreover, that those dangers were both more frequent and more fatal at Rome than in any other State. The pressing need of a highly-finished system of private law in republican Rome was therefore arising from the ubiquitous presence of a danger threatening some vital interest of the Roman citizens in the common dealings of private life; a danger placing

them, as it were, in a perpetual state of siege. Which was that danger?

Before starting on the search for that danger, it will be advisable to give an example of the working of such a danger in a country other than the Roman Republic. The ancient Jews and their modern orthodox successors in Poland and Russia have been, as also are, to a certain extent, the Americans of the United States of America, subject to the influence of a danger placing them practically in a state of siege. The ancient Jews, in the times when their commonwealth had become a theocracy, or what amounts to the same, an excessive democracy (see vol. i.), had practically done away with all elaborate State-organisms. In transferring legislation to the Godhead, they forestalled the necessity of having legislative assemblies. In accepting a religious code, both of private and public life, they rendered all organised State-administration superfluous. Yet in closing themselves and their commonwealth against all foreign contact, they still stood in need of some kind of a working organisation for the maintenance both of order and cohesion as a separate State. In other words, they had no government hierarchy; yet they needed the functions thereof. They had no police nor army, yet, like all States, they could not do without the effects of both. The way in which they made up for the well-nigh total lack of a State-organisation proper has been outlined in a previous chapter of the first volume. It may be summed up in the statement that the ancient Jews made, by a system of painfully minute ritualism, everybody his own policeman, his own State official, his own unrelenting controller. For, the slightest transgression of the all-embracing and sacred rules

of the daily, almost hourly, ritual was considered not a misdemeanour, but a sin. The tribunal competent for such sins was the most unyielding of all tribunals: one's own religious conscience. And thus the life of every Jew was one of nearly constant apprehension of committing sins, while eating, drinking, talking, sleeping, walking, or doing business of any kind. This extreme ritualistic rigour, which to us, as members of organised States, must necessarily appear crude and ludicrous, was in reality neither. It was only the necessary complement of the absence of all State-organisation proper in the Jewish theocracy. Institutions, like things, have their prices. They who desire a certain institution must needs pay the price thereof. In the United States of America, where extreme democracy has, as in ancient Judæa, largely disintegrated the State (in the European sense of that word), the old Jewish makeshift for State-organisation has come to the fore very markedly. As amongst the Jews, there are in the States beverages *kosher* and beverages *trephe*; cider or tea being the former, brandy the latter. As amongst the Jews, theatres and similar spectacles are taboo to the pure, and dancing and merry-making a horror. As amongst the Jews, the Sabbath is kept with the most rigorous punctiliousness; and in New England even the meals for the Sabbath are, in many American families, prepared on the foregoing eve, as is the wont of the Jews. The disintegration of the State proper not being carried in America to the extent to which it had been pushed in ancient Judæa, it is natural that the American ritualism, discarded as it is by the numerous Europeans in America, has not yet reached the height of the Jewish, although

the hundreds of ever new denominations rife in the States, with many of which ritual rigour is imperative, are manifestly Jewish in their drift. And unless the disintegration of the State be stopped, America, this the "most advanced country on the face of the globe," will amuse us with the spectacle of an historic atavism of the most uncouth character. But to return to the ancient Jews. The rigour of their ritualism was, as we have shown, uncompromising and absolutely indispensable. Yet it was, human nature being the same in all ages, highly obnoxious, impractical, and meddlesome. Some means of toning it down without uprooting it were required. This means was furnished by the rabbis. Conterminously with the fabric of ritualism, they contrived to rear a still grander and infinitely more elaborate filigrane fabric of casuistry, by virtue of which the rigour of the law could be practically avoided, condoned, or reduced. It may be stated that the labyrinthic and over-subtle theologico-juristic fence, filling five-sixths of the folios of the Babylonian or the Jerusalemitic Talmud and subsequent law-books of the Jews, are taken up with devising means of reconciling the letter and spirit of the ancient ritual and religious law with the conflicting exigencies of practical life. That casuistry, at once supplementary to and destructive of the rigour of the ancient Jewish law, was as indispensable for them as was their very existence as Jews. In Christian times that sort of casuistry is called Scholasticism, and we may therefore consider the Talmudic Jews as the real inventors of Scholasticism.

In the same way in which the Jews of the Diaspora were compelled to invent and elaborate a system of over-refined Scholasticism, half theological, half

juristic, even so the Romans were compelled to invent and elaborate a system of purely civil law. Wherever such a system has become desirable (for one reason or another), there Roman law was welcomed and adopted. And since the tendency of modern States is clearly pointing to a time when a purely civil law will be amongst the absolutely indispensable institutions of all civilised nations, the fame and importance of Roman law, far from decreasing, will go on increasing. No nation can adopt the common law of England without adopting at the same time many of the essential portions of the English constitution; and, accordingly, England has found it impossible to introduce her law into such of her colonies as were not settlements inhabited purely by Englishmen. Thus in Ceylon, British Guiana, and all the South African colonies, Roman-Dutch law, as it prevailed in Holland during the last century, is still in force. Lawsuits, involving many thousands of pounds, are still decided at the Cape according to the opinions of the jurists of imperial Rome, who never so much as surmised the existence of South Africa.

It now remains for us to show the proximate causes of the need of a science of private law in the Roman Republic. Having done which, we shall be very much less at a loss to account for the Romans having created, and not only needed, a science of law unattainable to all the other nations.

In a former chapter it was pointed out that republican Rome was, from the stress of surroundings amid which it existed, obliged to draw very heavily on the moral integrity of her citizens. All city-states require a more thorough devotion of the citizens to

the State than does any other type of State; and amongst city-states Rome could certainly not afford to tolerate any laxity on the part of her citizens. Menaced in the north, east, and west; availing herself not at all, or very little, of the sea as an outlet against danger, prae-Hannibalian Rome was grafted on her single citizens and their respective *virtus*. But for that *virtus*, Rome would occupy no more conspicuous place in history than did any obscure place in Epirus or Macedonia. Rome was the Romans, and *vice versa*. The modern State—say of France or Austria—would not be affected at all if two or three millions of its citizens should leave it altogether. The strongest emigration does not alter the character, though it may weaken the power of the modern State. Not so in Rome. The Roman women might have emigrated, but no considerable portion of Rome's men could have left the Eternal City without thereby shaking its very foundations. As a direct consequence of this most intimate relation between the Roman citizen and the Roman State, the character of each citizen was required to be not only untarnished, but most scrupulously pure. A citizen of Rome, down to the end of the second Punic war, and even, though with allowances, down to the times of the social war, was not a mere citizen, in the sense of a tax-paying, fighting, and voting individual. He was much more than that; he was a member of a holy and exceedingly grave association. He resembled very much more the members of monastic orders than the *bourgeois* citizens of modern States. Being a priest at home, a judge in the forum, a lawgiver in the Assembly, one of the appointers of his officers in war, the ruler of

several families and of slaves: the Roman citizen was obliged to maintain the sacredness of a priest, the unimpeachable character of a judge, the dignity of a lawgiver, the discipline and courage of a soldier, and the respectability of a patriarch. These arduous functions entailed upon him a gravity of conduct in all the actions of his private life which, as it is uncalled for in modern States, so it would be considered excessive. Soldiers, in modern times, do not consider pecuniary indebtedness a taint on their character; and the shortest stay on the Continent, where officers of the army form a distinct social class, will convince any one of the fact that their *point d'honneur* is callous to the notoriety of their debts. The Romans, although soldiers and officers, treated pecuniary indebtedness very severely. For they were not only soldiers but also judges, and a judge cannot suffer the slightest aspersion on his financial integrity. By a parity of reasoning, a Roman, although officiating as a priest both at his home and publicly, could not view military virtues with the indifference of a modern priest. The slightest taint on his character as a soldier drew upon him the contempt of all his fellow-citizens. It is therefore evident that any one action of an individual Roman, although innocuous in one or two respects, may have been very injurious to him in others. This complexity of effects caused every Roman to apply the utmost caution in his conduct, and nowhere was that caution more imperatively required than in money matters. To a nation like the Romans, few things are more repulsive than an excessive desire of making money by trade, commerce, or mercantile enterprises generally. As

soldiers, they despised commerce, as all soldiers have done before or since. As priestly patriarchs, they abhorred the unhallowed cupidity and treacherousness inherent in most dealings of commerce; and all the more so as trade, industry, and commerce were in antiquity branded by the stain of slavery, as being mostly in the hands of slaves or freedmen. As citizens, they revolted from the undeniable selfishness inherent in all undue love of money-making. And finally, as the very organs of their State, they apprehended that the demoralising effects of habitual money transactions might corrode that integrity of character which formed the very basis of their polity. Polybius, in the fifty-sixth chapter of the sixth book of his *History*, has given monumental expression to the supreme detestation in which impure acquisition of wealth was held by the Romans even of his time, and innumerable passages of other Greek and Roman writers go to confirm the statement of the great Achaean. The Romans, therefore, treated all matters relating to the acquisition or conveyancing of property, to the payments of debts, or the transmission of inheritances, with the utmost rigour. Physical life could not be taken away from a Roman unless the whole people assembled had so decreed it. Of his moral and political existence, on the other hand, any one of his unpaid creditors could deprive him by holding him as a bondman or by selling him. House-sons (*filii familias*), even if men of mature age, could legally acquire nothing for themselves. Testaments were made either in the Assembly or in the presence of the Roman army; or, if privately made, regulated by the utmost formality. The number of actions

was few; they were rigorously formal, and poor in resources for defence. Appeals were unknown; execution of the judgment was private. Such was, in some of its most essential features, the law of the Romans in the fifth and fourth centuries B.C. In the course of the third it became still more rigorous. The Romans had now become conscious both of the power and the nature of their State. The lessons of the first Punic war all tended to the creation of still stronger barriers against the encroachments of cupidity, laxity of morals in private transactions, or latitudinarianism of any kind. And since the Roman citizenship had, by the beginning of the first Punic war, become a privilege of inestimable value, and a dignity of the highest stamp, the means of coercing all dissolute propensities of the citizens of Rome was naturally found in what each Roman citizen dreaded most: in the diminution or loss of his civic rights. In modern times there are so many outlets for ambition, talent, wealth, perseverance, or general cleverness, that the diminution of civic rights appears appalling to a very few peculiarly-situated people alone. In Rome, in the third, second, and even first century B.C., the ambition, the hopes, and the gifts of a Roman citizen had one outlet alone: the enjoyment of his civic rights. To deprive him of that enjoyment was to deprive him of his very life. Here is the juncture of historic events, by the light of which we may comprehend why Rome alone created a science of law. For the rigour of the ancient law of Rome may be met with in other antique city-states. Athens, too, had, up to Solon, most rigorous laws respecting debts or property. But no other Mediterranean city's citizenship had attained to the degree

of all-absorbing importance and value that Roman citizenship had acquired by the middle of the third century B.C. Athens, Sparta, Syracuse, and a few other city-states were, at times, dominant centres of one or the other small section of the Mediterranean countries. Rome alone was, already at that time, on the high road to inter-Mediterranean supremacy. To be a Roman was then to be the virtual lord of the destinies of all civilised nations. Hence Roman citizenship was not merely a limited sum of various rights and privileges, but an unlimited source of the grandest possibilities ever fallen to the lot of mortals. If, therefore, the very existence of the Roman State required, and most imperatively too, the strictest coercion of its citizens in all matters of business, as it did in all other walks of life; and if that coercion was realised by threatening lax citizens with the loss of their priceless civic rights; it becomes quite evident that the Romans had immeasurably more and stronger motives for paying the utmost attention to the adaptation of those coercive laws to the exigencies and inconsistencies of practical life than had any other city-state of antiquity. For that goes without special pleading: excessive rigour in laws, whether of State, Church, or Society, cannot be literally maintained for any length of time, and respecting multitudes of people. There never have been more than a handful of Trappists. Such rigorous laws, while upheld in theory, are bound to relax in practice. Nearly all the great or successful city-states of antiquity had, for the reasons above mentioned with regard to Rome, the same tendency to rigorous laws[1] and to their mitigation for purposes of practice. But none,

[1] Whence their refusal of marriage other than monogamic.

except Rome, had the interest of all the best minds of the State enlisted in the cause of maintaining that rigour while toning it down. Interests other than law occupied hosts of talented Greeks; their States having never reached the potency sufficient to enlist in its cause all the intellect of its citizens. Science, philosophy, art, literature, claimed untold numbers of Greeks whose minds found no adequate food in their small States. For had Athens, Byzantium, or Miletus attained to an inter-Mediterranean importance of three or more centuries' standing, there can be no doubt but that its citizens, facing the same necessity of harmonising the rigour of law with the compromises of life, would have elaborated a system of private law essentially identical with that of Rome. The great Roman system of private law was, therefore, developed in Rome, and there alone, because in the other free city-states of antiquity, although all of them tended to a system of law like that of Rome, those tendencies never went beyond the first stages, for reason of the inferiority of the political power of those States. Roman law is a function of the Roman State, as the most developed city-state of antiquity; it is, to use terms of Roman law, an institution *alieni juris*, and in the *manus* of the State. The host of modern civilians, from Duarenus, Cujacius, Donellus, and their contemporaries downwards to Savigny, Puchta, Vangerow, Jhering, Joseph Unger, Rudorff, Karlowa, Cuq, Muirhead, Padelletti, and other celebrities, have never paused to view the rise and growth of Roman law as a function of the Roman State.[1] Roman law treating of the

[1] The statement in the text is substantially correct, some occasional exceptions amongst civilians notwithstanding. J. Kuntze has certainly felt,

relations of private persons, and Roman jurists distinguishing it very markedly from public law, or the constitution of the State; it was very natural that civilians neglected to lay bare, by historical and juristic analysis, the ligaments and tendons attaching Roman law to the Roman State. Yet this neglect can no longer continue. The historical deductions of the Roman jurists are mostly as worthless as are their etymological. We must go beyond them in this respect too, just as modern pandectists have gone far beyond the dogmatic teachings of Papinianus or Paullus. The question is, what was the *vera causa* of the rise and growth of Roman law? By *vera causa* we mean the working cause: the one that in its bearings and correlations was the actual fountain-head of that law. It is a pardonable error to assume that one law is derived from another law; private law from legal institutions of private life; or one religion from another religion. Thus, as we shall see, both friends and foes to the Christian religion have never stooped to think whether the assumption that that religion may be derived from oriental or Graeco-Roman *religions* is not radically false; in that it attempts to trace one religion to another religion instead of to institutions of no religious drift at all.

if not acted on the knowledge of, the necessity of taking the influence of the Roman State on Roman law into consideration. But his latest small treatise to that effect (*D. Parallelismus d. jus publ. u. priv. bei d. Roemern*, Leipsic, 1889, 35 pp.) dwells only on analogies, not on causal connections. Karlowa treats in his laborious *Roem. Rechtsgesch.* of Roman constitutional law too, but not of the effect of that law on the rise and growth of Roman civil law. A. S. Schultze (*Privatrecht u. Process in ihr. Wechselbeziehung*, 1883, one of the most suggestive books of recent German jurists) has touched some preliminary questions of the great problem only. The late Professor Jhering, whose great mind was peculiarly fitted for researches into causes of jural relations, has, in a letter to the author of the present work, written a few weeks before his death, expressed his approval of the view held in these pages, although "he had evidently neglected to pursue it."

Yet the correlations, both statical and functional, in institutions; the way in which the deficiencies or redundancies of one or two give rise to a third and almost radically different institution, are so numerous, so complicated, and so startling, that we have no right whatever to assume generally that legal or religious institutions must necessarily stand in a direct causal nexus to the subjects with which they deal.

The *vera causa* of Roman law was the necessity of keeping up the rigour of the ancient law of Rome, while toning it down by means of a system of legal institutions evading, condoning, or reducing it. The need of that rigour was rooted in the very existence of the Roman State. Nothing short of the perpetual threat of the loss of all that made the life of Roman citizens worth living could effectually maintain them in a state of moral integrity and readiness of self-sacrifice of the very highest cast. Enthusiasm for one's State can go very far; yet for the multitude it is not an absolutely trustworthy incentive to high-strung efforts. The dread of contumely is infinitely stronger. This, then, was applied in Rome. The various institutions, customs, laws, and public prejudices in ancient Rome affecting the *existimatio*, or public respect of a citizen and his civic rights, may be conveniently housed under the term *infamia*; and in this wide and comprehensive sense of that term we were, over seventeen years ago, the first and only one to state that Roman *infamia* was the *vera causa* of Roman law.[1] The more we

[1] In the course of lectures delivered at Oxford, February-March 1890, and printed under the title of *Graeco-Roman Institutions* (Oxford: Parker and Co., 1890). These lectures have been translated into French by the able French jurist, M. René de Kerallain (in the *Revue générale du Droit* for 1891-1892), and were meant to give in outline the essence of an elaborate work on the

have studied Rome and her history, the stronger has our conviction become that *infamia* is the *vera causa* of the rise of Roman law. *Infamia* played in Rome the same *rôle* that "sin" and the dread of sinning played in ancient Judaea. In the current text-books of Roman law, *infamia* is made to appear as a merely incidental feature of Roman law; the texts of the imperial jurists (whose works alone we still possess in anything approaching completeness) allotting to *infamia* a comparatively very small space. This they did for an obvious reason: in the imperial period no classes of citizens other than senators and persons of equestrian rank could be inflicted with *infamia*. Like so many other great institutions of the Republic, *infamia* too lost its great constitutional significance during the Principate. For during the Republic it had been one of the chief pillars of the whole edifice of the State. During the Republic, *infamia*, together with the religion of the Romans, were the great cohesive powers of the State. *Infamia*, comprising *ignominia*, *nota*, *turpitudo*, or any other appellation for the lowering or destroying of a Roman citizen's *existimatio*, was, if not in all its aspects, of very old standing. The fragments of the XII Tables contain both an explicit and an implied passage clearly pointing to the existence and even technical nature of *ignominia*.[1] So does the *Lex*

history of Roman Law, which will appear after the completion of the present. The technicality and complexity of the subject are so great that the author can only crave the reader's indulgence for the incomplete sketch here given, asking him to delay his judgment until the appearance of the work on Roman Law. Both at Oxford and at Paris the author's view of the vast importance of *Infamia* was at first duly derided, and afterwards, in England in 1894, in Paris in 1896, impudently appropriated by scholars with whose names we do not mean to contaminate our pages.

[1] The passage in the XII occurs, according to Voigt's arrangement of

Valeria de provocatione of 300 B.C.;[1] and even the purely technical praetorian *infamia* can be traced as far back as the middle of the sixth century U.C.[2] The institution known as the *capitis deminutio*, which, in part, too, weakened the citizen's civic status by lowering his *existimatio*; the enormous and practically almost unlimited power of the Censors, or the Censorian *nota*; and finally, the public opinion of Rome with regard to the respectability of entire trades or occupations; all these were agencies threatening the most precious rights of Roman citizens. In a timocracy, as Rome, where originally wealth alone could reach the higher and really ruling classes in the Assembly, the abuses of money and money-making would soon have undermined the State, had money matters not been subjected to all the dangers implied in the above institutions. Moreover, house-sons were made incapable of acquiring for themselves; women were in similar bondage as to the acquisition of wealth; the numerous freedmen were under a

the Tables, in II. 4, 5. The other passage is the well-known prohibition, or rather criminal threat against defamatory pasquilles, VII. 14 (Voigt). The use of libellous songs prevailed in ancient Rome, in connection not only with the *Versus Fescennini* at harvest feasts, vintages, or other occasions of merry-makings, as has been remarked by various scholars, but also, and chiefly, with the numerous elections. Elections naturally give rise to libels, and it was evidently the dread of losing in political character as a candidate that libellous songs were visited with flogging. The passage in the XII Tables sheds, therefore, a strong light on the political life of Rome in the fifth century B.C., provided we view the text in the right manner.

[1] Livy, x. 9, 5: and the comment on that passage in M. Voigt, *Die XII. Tafeln* (1883), i. 442.

[2] This becomes evident from a comparison of the following passages:—Gellius, ix. 12, 7 (quoting from M. Cato, *de re Floria*); Varro, *de Lingua Latina*, vi. 7, 71; and the numerous passages in Cicero, where praetorian *infamia* appears as a fully-developed institution of old standing. See, moreover, Marezoll, *Bürgl. Ehre*, 99, etc., 212; Raspe, *Calumnia*, 43; and especially M. Voigt, *Jus naturale*, iii. p. 903, note 1412; *Röm. Rysch.* (1892), pp. 267, 299.

severe *patronatus*; so that in reality only a few wealthy heads of families were enjoying all the rights of liberty. From the times of the Punic wars, all the above restrictive institutions were developing both in comprehensiveness and severity. At the same time, however, the Roman State grew from an Italian to a European power. New modes of acquiring wealth arose; new channels of commerce were opened. The spectre of lowered *existimatio* haunted the Roman in every one of his dealings or actions. Any act or action of law was fraught, both for the creditor and the debtor, with the danger of *infamia*. In this sense, Roman private law-matters were saturated with criminalistic elements. Accordingly, jural relations and procedure had to be invented, which by their very nature would not admit of provoking *infamia*. The Romans, who used their slaves as agents, managers, bailiffs, bailees, book-keepers—in short, as the vehicles of their business transactions—could not help noticing that slaves, being no members of the State (having no *caput*), could not be afflicted with *infamia*; yet slaves could and did do the bulk of all business. The neutral and *infamia*-proof jural relations and procedure, desired by the Romans, were thus plainly indicated and illustrated by the slaves. Thus, in the old rigorous law of Rome, representation was almost impossible. This is easily explained by the fact, that nearly all business dealings in Rome were beset by the dangers above described, which could have easily been played out by representation. A wealthy man, for instance, wishing to avoid all risks in a business transaction, might have hired a poor or reckless citizen who did not mind the loss of his civic rights. In the same way, representation is prohibited

in modern criminal law. Now, the Roman law forbidding representation could not be upheld amidst the growing wealth and commerce of Rome. The neutral and *infamia*-proof jural relation of agency, which was to tone down the prohibition of representation, was clearly suggested by the daily agency of slaves. Once the precise difference between agency by slaves and agency of citizens was determined, the whole jural relations of agency is placed on a strictly civilistic basis. Slaves could evidently perform *res facti*, but no *res juris*. Accordingly the panacea for the necessary evils of the rigour of the old law, that is, the means of discovering neutral and *infamia*-proof jural relations, was the introduction into law of the concept of *res facti*, as opposed to *res juris*. Thus in the law of obligations the *res facti* was the *pactum*;[1] the *res juris*, the *contractus*; in the law of procedure, the *actio* proper was *res juris*; the *interdictum*, a *res facti*.[2] And again the same dichotomy was shown in the *actiones in jus conceptae*, as against the *actiones in factum conceptae*; in *agnatio* and *cognatio*; in *homo sui juris*, and *homo alieni juris*; in *res mancipi*, and *res nec mancipi*; in *mancipatio* and *traditio*, etc. We are now enabled to see why the countless passages in the works of Roman jurists dealing with slave law have lost nothing of their value. The slave, in those works, is the type of the *res facti*; and since all purely civilistic law rests on the co-operation and contrast of the two types, viz. *res facti* and *res juris*, the Roman slave, as a jural category, is necessarily immortal. Just as in

[1] See the admirable chapter xv. in the second book of the *Observationes* of Cujacius.

[2] Compare Ph. Ed. Huschke's *De causa Siliana ad Cic. epist. ad Diversos*, vii. 21, in Huschke's *Studien d. röm. Rechts* (1830), especially note 4*, p. 3.

Roman comedy he served as the richest well of wit, so in Roman law he suggested the most powerful means of creating a neutral and purely civilistic law. For so complicated is life, that the glory of Rome is largely owing to the indirect working of the lowliest in Rome, her slaves. Not they alone, however. The Roman house-sons, too, suggested similar means; and the slave and the house-son, both where they coincided and where they deviated on lines of most subtle curvature (civilistically), helped the system of Roman law into existence. That fundamental distinction between *res juris* and *res facti* once given, the law could no longer be stinted in its growth by the infiltration of irrelevant or uncivilistic principles. And since the Romans were actuated by most powerful reasons to elaborate their law as *civilistically* as possible, it was but quite natural that, being placed on the right basis and working in the right direction, they ultimately achieved a juristic feat unattainable by other nations. The truth and reality of the present view of the *vera causa* of Roman law can also be confirmed by applying it to the historic derivation of modern Continental criminal law, which in systematic perfection is undoubtedly the nearest approach to Roman civil law. In fact, for reasons exactly analogous to those stated above regarding the rise of Roman law, modern Continental criminal law is going to be, and partly is, a counterpart of Roman civil law. In it, too, the distinction between *res juris* and *res facti* is of primary importance; and its procedure, both before the judge and the jury, is an almost exact *analogon* of the Roman formular *actio*. There, too, we find the bifurcation in *jus* and *judicium*, there the *litis contestatio*, the informal evidence, the

judgment without appeal, and many more minor features particularly characteristic of Roman procedure in civil lawsuits. Moreover, "material" or substantive criminal law on the Continent is essentially built up in the architecture of Roman civil law.

Lastly, it may be remarked that the combative character of Roman civil law, originating as it did from the fact that each Roman was constantly placed on the *qui vive* in nearly every action of his life, gave Roman civil procedure the ascendancy over Roman material law. The so-called "adjective" law was, in Rome, the primary; the "substantive" law, the secondary. The Roman *actio* is not a mere pendant of substantive law, as in most modern laws, but its parent, or at any rate its guardian. This gave the discovery of the *Institutes of Gaius* in the beginning of the last century—a work which taught us how to understand the Roman system of *actiones*—its epoch-making importance. One more such find, and we may cease to mourn the loss of the complete text of the XII Tables.

Finally, it is clear that the extreme jeopardy of honour and fortune in nearly all acts of Roman civil and civic life was only another, in this case, the Roman form of that rigour and puritanism without which no Imperialism can hope to last for more than a generation or two, as we have seen in the case of Sparta, and as we showed in our "*Imperialism.*"

Roman Literature

In treating of the literature of the Romans, we mean in the main to state the relations of the Roman State to Roman literature. Purely literary questions are outside our scope. The effect of Roman literature on post-Roman generations was even greater than that on the Romans themselves; and to the present day the study of Latin, together with that of Greek authors, forms the mental food of all the youths in Europe, not excepting Greece proper.[1] Several scholars have essayed to trace in detail the imitations of Plautus, Horace, and other Roman writers, made in the Middle Ages and in the last three centuries; it would, however, amount to rewriting a large portion of all European literature if we were to point out all the innumerable poems, dramas, narratives, and orations suggested by or elaborated after the model of the great writers of Rome.[2] In fact, the influence of Roman literature on Europe has been considerably greater than that of Hellenic works. The admiration of Homer is not over one hundred and fifty years

[1] As to Latin being taught and Latin authors read in modern Greek colleges and *lycées*, see G. Chassiotis, *L'instruction publ. chez les Grecs depuis la prise de Constant. par les Turcs jusqu'à nos jours* (Paris, 1881), pp. 251, etc.

[2] Karl v. Reinhardstoettner, who has essayed to write such a work, did not proceed any further than the completion of a voluminous record of the imitations of the twenty-one comedies of Plautus (*Die plaut. Lustspiele in spaeteren Bearbeitungen*, a volume of nearly 800 pages, Leipsic, 1886). Horace has influenced the writings of both poets and amateurs still more profoundly; and Virgil, as is well known, was considered the embodiment of all human wisdom during the Middle Ages.

old. Previous to that, Virgil was considered by far superior to Homer: "*Homère a fait Virgile, dit-on; si cela est, c'est sans doute son plus bel ouvrage,*" said Voltaire, and with him all critics of Italy and France. At present we think otherwise. Homer to us is The Poet; and Virgil's epics but poor strivelings after Homeric laurels. Yet this was not the sentiment of over twelve centuries of readers. And what Plautus, Virgil, Horace, and Ovid were in poetry, Cicero, Seneca, and Tacitus were in prose: models and mentors for countless writers of Europe.

Literature proper, or literary works of art, were not the natural and spontaneous outcome of the Roman State. It was chiefly through the desire to imitate or rival the Greeks that the Romans were led to cultivate the various branches of poetry and prose. Intense political activity, this the very centre of all interests in republican Rome, is naturally averse to serious devotion to the delicate pursuits of literature. In every such politician there is a strong element of Robert Walpole's cold sneer at literary people. For political ambition prompts the means of ruling people; literary ambition, on the other hand, of pleasing them. The Romans of the Republic have therefore, with rare exceptions, treated literature with condescending benevolence, or as a sort of noble sport, rather than with ardour or as an object of its own. The *Tragedy* never prospered in Rome. Considering the highly tragical incidents of Roman history, the lack of numerous Roman tragic writers and of good tragedies seems somewhat astounding. Lessing has urged that the horrible realism of the gladiatorial games in the *Circus* stunned the nerves of the

Romans to the softer effects of played tragedies. However, the similarly ghastly realism of the Spanish bull-fights did not interfere with the growth of the great tragedians in Spain during the sixteenth and seventeenth centuries. But if we consider that most of the Roman tragedians were statesmen, or mere amateurs, the inferiority of the Roman tragedy becomes less puzzling. Tragedy is the highest form of dramatical literature, the gravest of the tasks in poetry. Its noble object is the purification of sentiments and character by means of the representation of soul-stirring scenes pressing on to an inevitable fatality. However, the lessons of destiny were inculcated on every Roman in his daily life at home, in the forum, and in the camp. These lessons had already taken visible shape in Roman law and in Roman military discipline. For the Romans, a tragedy on the stage was superfluous. Like all nations whose everyday life is full of stern gravity, the Romans went to the theatre for distraction and cheap amusements. Just as merry England of Queen Elizabeth's time culminated in the colossal tragedies of Shakespeare, whereas stern England of to-day is rushing into music halls; even so was it in Rome. Livius Andronicus of Tarentum (240 B.C.), the first of the Roman tragedians, in point of time; Gnaeus Naevius, his contemporary; Lucius Accius of Pisaurum in Umbria, who died at about 85 B.C., at a very old age; L. Annaeus Seneca, the teacher of Nero, and a Stoic philosopher, whose nine tragedies alone have come down in a complete state to our time; and thirty-two other minor or insufficiently known writers form the whole stock of Roman tragedy. All of them have not written twice as many tragedies

as were composed by Sophocles alone. Most of their works are book-dramas, and were read and duly applauded by invited and bored audiences at Roman "At Homes."

The *Comedy*, or rather the comic opera, was very much more to the taste of the Romans. T. Maccius Plautus, a low-born Umbrian (died 184 B.C.), the cleverest adapter of comedies of Greek origin (*fabulae palliatae*, in contrast to subsequent—now lost—comedies with plots of Italian or Roman character, or *fabulae togatae*), has won the applause of ancient Rome as well as of the severest of modern critics. The numerous "Plautine" dramas were reduced by the ancient polyhistor Terentius Varro to the number of twenty-one, which with one exception we still possess completely. They consisted of partly spoken (*diverbia*), partly musical pieces (*cantica*). Their types were few. The cunning or honest slave was the richest of the types; the Roman *demi-monde* and their backers is a frequent, but a poor type; gulled fathers, reckless youths, insolent parasites, and blustering soldiers complete the types used. The briskness of Plautus's most artistically metred dialogue, and the true jolliness breathing in his pieces, can still be relished. Unlike Plautus, his contemporary P. Terentius, whose six elegant comedies we still possess, was totally dependent on Menander and Apollodorus, his Greek models. There was subsequently some more writing of comedies in Rome; but most of them are lost.

In *Epic* poetry the Romans have left us works of great merit. The fragments of the *Annales* of Q. Ennius, the first Roman epic poet (born 239 B.C.), and the first to perfect the Latin epic hexameter, this

musical instrument full of mellow depth, and dignified vigour; the *Aeneid* of Virgil; the *Pharsalia* of Lucanus (a Spaniard, born 39 A.D.); and the *Punica* of Silius Italicus (committed suicide in his seventy-sixth year, 101 A.D.); and the works of Claudius Claudianus, a belated Virgil (fourth century A.D.), are the most noteworthy amongst them. The *Aeneid* of Virgil, undoubtedly the crowning work of Roman epic poetry, and a charming poem altogether, reveals the fatal weakness of all Roman epic poetry: the lack of *naïveté*. Nations in whom *naïveté* has been dried up by the aridly selfish and practical turn of their life are incapable of composing excellent epics. Thus the Romans were just able to write good *patriotic* epics, their patriotism being the strongest of their few ideal and unsophisticated features. It is therefore not astounding to find that amongst the very numerous provincials writing in Latin, not one had sufficient literary single-mindedness to embody the floating treasures of the native poetry of his country into epics or dramas. A nation like the ancient Iberians (Spaniards) was certainly infinitely richer in heroes and heroic deeds than were the Finns of Russia. Yet neither Lucanus, nor Martial, nor any other Spanish writer so much as thought of enriching Roman literature with an Iberian *Kalewala*. The Romans themselves never seem to have noticed the poesy weaving round some of their subject nations; and the hoary charm of Egypt found them as callous as did beauteous Asia Minor, or legendary Mesopotamia.[1]

[1] There is a strange analogy to that in English literature. Of the countries under British dominion, none can rival India in poetic suggestiveness. India has her large place in German fiction, and even in that of other nations, except the English. Barring the works of one or two recent poets, England has never

If the epic proper was denied the Romans, two other semi-epical branches of poetry were cultivated by them with marked success. These were didactic poetry and the satire. Didactic poems were very well suited to the moralising and jejune minds of the Romans; and although many a literary critic has condemned that species of poetry as altogether unpoetical (and the works of Valgius Rufus, Aemilius Macer, Grattius, and others, certainly were without a tinge of poetry), yet the *De rerum natura* of Carus Lucretius, the *Georgics* of Virgil, and the *Fasti* of Ovid are, especially the two former, full of exquisite poetic beauties. Lucretius in particular has still a vast future before him. The satire, which Quintilian claims as a thoroughly Roman product, was a natural result of the animated party life in republican Rome. C. Lucilius (born about 180 B.C.), who first used it extensively, was the model of subsequent Roman political satirists, as Horace was of social ones. The fragments of Lucilius reveal much force, poignant judgment, freshness, and patriotism. Horace is far more refined, and his imitators, chief of whom is Persius, have not surpassed him in the elegance and wise *bonhomie* of his satirical works. Juvenal, after the death of Domitian, vented all the bilious temper of a true Roman in satires full of vigour and exaggeration. The Romans were, like the English, much stronger in satire than in irony or wit; and just as satire is the main force of the greater number of English writers

responded to the strong poetic incentives abounding in India. A curious illustration of this fact, suggested to the author by Mr. A. H. Grant, is given in the list of subjects for English prize poems at Oxford University (Sir Roger Newdigate's prize). From 1826 (that is, from the time when no limitation of the range of the subjects was made) to 1883, only three of the fifty-seven subjects given related to India. See *The Honours Register of the University of Oxford* (Oxf. Clarendon Press, 1883), pp. 173, 174.

and poets, so it is also the staple quality of Roman writers. For satire is, in origin at least, a sort of enthusiasm of indignation and other reprobative sentiments, and is therefore natural to a nation which belittles ingenuity, branding it as mere "brilliancy." "*Opinionis enim commenta delet dies*," said the Romans. Archidamus, a Spartan king, likewise said of the Spartans: *νομίζειν δὲ τὰς . . . προσπιπτούσας τύχας οὐ λόγῳ διαιρετάς*. Most English think the same way.

Next to the satire is the *epigram* proper. The Romans had many a writer of poisoned two-liners. Catullus and Martial, together with many less-known epigrammatists collected in the so-called *Anthologia Latina*, have not lost anything of their charm to the present day. Strange to say, the Romans have given us also several writers of true lyrics. Catullus, Cicero's contemporary, is not only equal, but in splendour of diction even superior to Heinrich Heine or Alexander Petöfi; and Tibullus and Propertius, both contemporaries of Augustus, have in their elegies and other lyrics touched upon many a responsive chord of delicate and profound sentiment. It has been already remarked that all the great Roman poets were born and also partly educated at places other than Rome. This circumstance may explain the startling poetical power of Catullus, Tibullus, and Propertius. The Roman spirit, sterilising as it was for spontaneous poetry, may not have been equally rampant in out-of-the-way places of Italy. Another plausible cause of the intense and poetic passion permeating Catullus's poems, and much of the works of Tibullus and Propertius, is in that the object of their loves were women superior to the *demi-monde* idolised in Horace, Ovid, and most

other Roman lyrical poets. In ancient Rome, as in modern France, the young girl of a decent family was held in absolute seclusion from society. The youths of Rome could therefore direct their lyrical propensities to two classes of women only, to married women and to the *demi-monde*. Owing to the intimate connection between the subject-matter and the poem, lyrics devoted to *hetairai* can rarely reach the highest pitch of perfection. Poetry, no less than science, demands truth as one of its chief elements. Morbid sentiments, however, are generally untrue. Hence the coldness of Horace's lyrics. There is much art in them; but that touching frenzy which true sentiments alone can impart is missing. As to the Odes of Horace, many of which were meant to be sung,[1] music probably made up for their lack of inner warmth. In Catullus and his two elegiac colleagues, on the other hand, real love is sung: love with all its pangs and blessings, love human, overwhelming, intoxicating. Ovid, whether as a narrator, a writer of lyrics, or an elegist, has charmed the most divergent nations and ages; and although inferior in art to Horace and in passion to Catullus, he is an exquisite prelude to the loveliness and melodiousness of Italian literature, into which Roman literature was destined to develop a thousand years after his time.

Literature with the Romans, we have said, was never of first-class importance. This may account for the lack of political essays, pamphlets, treatises, such as in the seventeenth and eighteenth centuries have played a *rôle* as decisive, if not more so, as is

[1] This has been amply proved by Otto Jahn in *Hermes*, ii. 418 *seq.* On the walls of Pompeii verses from Ovid and Propertius, but none from Horace, have been found.

that of the press nowadays. "Leaders" of modern journals and newspapers were, in Rome, spoken, not written. Such "leaders" were the great orations delivered in the Senate or elsewhere, and then faithfully collected. The preference given by the ancients to the spoken word influenced their whole literature. A glance at the imposing political life at Rome is sufficient to awaken in us high expectations of Roman oratory. Unfortunately we possess the orations of very few of the great orators of the Republic—of M. Antonius (consul, 99 B.C.), L. Crassus (consul, 95 B.C.), M. Livius Drusus (see p. 212), P. Sulpicius Rufus (trib. pl. 88 B.C.), etc. But we still possess fifty-seven of the orations of Cicero, orations in which, from the ripple of wit to the thud and thunder of slashing invective, all moods and modes of oratorical music are worked out in finished art. As marble finds its most sublime expression in statues of men or women, so the Latin language reaches its highest life in political orations. Cicero's orations are classical statues of linguistic marble. And by the time when the volumes written by the modern puny detractors of the incomparable Roman will long have vanished even from the counters of grocers and cheesemongers, the orations of Cicero, together with some of his treatises and his epistles (which have, in Professor R. Y. Tyrrell, at last found their classical editor and commentator), will still illumine the dreariness of the scholar's study or the statesman's parlour.

Of the greatness of Roman *historians* little need be said. Of history as a science the Romans had no idea; and they, the most conservative of nations, had little of that historical instinct, or love of history, which seems to be the virtue of nations whose past

has lost all living links with the present. But of history as an art, as a political treatise, the Romans were great masters. Caesar, Sallust, Livy, Tacitus, Ammianus Marcellinus, and a few others that we still possess, have an intrinsic and literary value quite independent of their value as sources of history. In spite of all the vaunted progress of modern times, no modern historian can rival Caesar in chaste simplicity, Sallust in pathos and energy, Livy in splendour, Tacitus in thoughtful terseness and finish, Ammianus in vivacity and picturesqueness. The grandeur of Roman history is also felt in its historians.

With nations where periodical journals are unknown, *Letters* are used instead; and thus we possess some collections of epistolary treatises, such as the letters of the younger Pliny, the contemporary of Trajan, a most accomplished, urbane, and sympathetic personage. The Romans were far too averse to abstract thinking to embrace the system of any one Greek school of philosophy with more than lukewarm zeal. What they did assimilate were the practical teachings, especially of the Stoics, but some also of those of the New Academy and of Epicurus. In science proper the Romans never even attempted to excel. Mathematics they despised; and even surgery, which might seem to have been indispensable with people constantly engaged in wars, was left to crude empiricism. Yet the encyclopaedia of the elder Pliny, or his *Naturalis Historia*, contains a world of information, and many a striking passage of deep insight into Nature. In science, as in philosophy, the Romans were contented to be the disciples of the Greeks.

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